

## Dealing with Abusive Bosses

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Working for an abusive boss has been compared to being an abused spouse. Although workplace abuse is less likely to involve physical harm and is usually far less severe, the situations are similar in other respects. In both cases, the victim feels vulnerable and dependent and often stays in the relationship. In both cases, the victim faces difficult financial choices.

This was the situation that Timothy Lloyd faced, according to court records. He worked as the City Manager for Imperial Parking in Calgary, reporting to the Vice President of the company. With a starting salary of \$50,000 and generous benefits, Lloyd began his employment with high hopes. Unfortunately, according to a 1997 Alberta court decision, Lloyd had the misfortune of working for a rude and abrasive boss. Lloyd's boss called him vulgar names and threatened to fire him. He refused to let him take his vacation. He repeatedly yelled and screamed at him. After enduring this treatment for fifteen months, Lloyd could no longer take the abuse. He quit his job and sued Imperial Parking.

A former Imperial Parking employee testified at the trial that Lloyd appeared somewhat like an abused spouse. He was made to feel insecure, berated and humiliated. The Alberta Court agreed with Lloyd that this treatment violated a fundamental term of any employment relationship— the right to be treated with civility, decency, respect and dignity. Lloyd was awarded damages of more than \$27,000 for constructive dismissal.

Since 1997, Courts of Appeal in Manitoba and Ontario have issued similar decisions, ruling that Canadian employees are entitled to work in an abuse-free workplace. If a workplace becomes intolerable, employees can quit and sue for constructive dismissal. Intolerable conduct clearly includes verbal or physical abuse. According to recent decisions, it can also mean being given unfair job evaluations or being put on probation without any basis

Despite the increasing willingness of courts to allow these claims, courts have also recognized that employers have the right to discipline their employees for poor performance and to make fair but tough demands. In difficult economic times, there is a great deal of pressure to produce results. Working for a challenging and difficult boss is not a basis for bringing a lawsuit. But when the demands are unfair and the boss becomes abusive – the legal picture changes.

In his 1996 book, *Brutal Bosses and Their Prey*, professor Harvey Hornstein sought to identify the differences between tough bosses and those who are abusive. Tough bosses set tough goals and consequences for not meeting the standards. Abusive bosses have a different goal. They aim to make life miserable for their subordinates. They humiliate their employees in front of co-

workers or customers. They criticize others harshly without any basis. Some accuse their subordinates of dishonesty or disloyalty in an effort to provoke a reaction. Others demand that employees carry out unethical or improper activities, as tests, to see how far the employees are prepared to go.

This type of conduct is not only harmful to the employees who face it but also creates problems for their employers. Workplace abuse creates high turnover rates, productivity problems and higher rates of absenteeism, not to mention increasingly high liability for damage awards in lawsuits.

Years ago, many people would have shrugged their shoulders and advised employees to tolerate the abuse or find a new job. For some today, that is still the right attitude. But things are changing. With developing Canadian case law, courts have shown that they are prepared to sanction employers who tolerate abusive bosses. Many proactive and responsible employers have faced this challenge by developing comprehensive anti-harassment policies, designed to prevent this kind of conduct.

Abusive treatment lawsuits have not been limited to bosses. Abusive co-workers can also create legal liability problems for employers. In 2000, a B.C. Court held that the Marine Pub was liable because it failed to stop its kitchen manager from yelling and swearing at a 13 year Beverage Manager, Susan Morgan. Morgan resigned and sued after almost two years of putting up with abusive treatment. The Marine Pub knew it was going on but failed to stop it. Morgan was awarded 13 months' pay.

Courts have also recently ruled that extra damages can be awarded for intentional infliction of mental or emotional distress. If an employer's conduct is outrageous and callous – or even if it is “sarcastic, envious, petty and vindictive,” and is intended to cause harm to an employee, the employer might face an additional award of tort damages. To date these awards have usually been under \$25,000 - relatively low, at least by U.S. standards. But Canadian law in this area is continuing to develop and may soon lead to very substantial awards against employers that tolerate abusive bosses.

For employees' trapped working for an abusive boss, there is no easy legal answer. If the employer has an anti-harassment policy, the policy will usually set the boundaries of acceptable conduct. There may be a confidential investigation and enforcement procedure and the policy may even have some teeth. These policies can benefit the company by limiting liability although, in practice, it can be a very difficult decision for an employee to launch this kind of complaint. Sometimes, it might be easier to try to transfer to a different division or location if that is a possibility.

For others, the stress of working in an abusive work situation can create medical problems. Panic attacks, insomnia and other forms of physical illness are common. In these cases, a medical leave may be the best response.

In other scenarios, the only available option is to quit, even without having found another job. Employees who quit a job because of workplace abuse are eligible for Employment Insurance benefits. They may also be able to sue their former employers for constructive dismissal if they can show that their workplace became intolerable. This kind of decision should be made very carefully and usually with professional advice, since the economic impact of leaving a job can be very significant.

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