

Disability Harassment

Once is Enough!

Apart from being unlawful, disability harassment negatively impacts both employees and employers. It violates a person's dignity, lowers morale, and eventually affects the person's overall performance. Employees and employers should work together to foster a harassment-free workplace.

The Complaint

Emma works as a security guard. She walks with a limp because of her disability (poliomyelitis). At the end of her work shift, she was required to make a report using the telephone system in the control room of the premises. One day, as she was preparing to make her report, she could not hear the instructions from the system clearly as a supervisor, Mindy, was speaking loudly to two colleagues in the same room. Emma asked Mindy to lower her voice, but Mindy refused, saying that she was doing her work. As Emma was leaving the control room, she heard Mindy say loudly, "Go break the other leg."

Emma was deeply troubled by the remark. She complained to her managers the day after the incident, but it was not until a few months later that they told her a warning letter had been issued to Mindy. Emma requested a report but was denied. Emma was dissatisfied with the handling of the incident, and felt she deserved an apology. She then lodged a complaint to the EOC against Mindy for disability harassment.

What the EOC did

Using the early conciliation mechanism, the EOC case officer tried to facilitate a settlement before investigation. Emma demanded a written apology. However, the parties could not reach a settlement

as they could not agree on the wording of the apology letter. The EOC then commenced investigation, and found a supporting witness to Emma's claims. Conciliation was still unsuccessful, and Emma applied to the EOC for legal assistance, which was given.

Harassment against a person with disability is unlawful under the Disability Discrimination Ordinance. Harassment refers to any unwelcome conduct on account of a person's disability where it can be reasonably anticipated that the person would be offended, humiliated or intimidated. Harassment can involve physical, verbal, written, or visual acts, including insulting remarks, gestures, or offensive jokes about a person's disability.

The case was eventually settled without going to the Court, with monetary compensation given to Emma along with a letter of apology.

Points to Note:

- In order for a conduct to constitute harassment, it must first be unwelcome to the recipient, meaning that the conduct is not solicited, invited, incited or reciprocated by the aggrieved person. An act can constitute harassment even if it happened only once and appeared to be trivial. The EOC urges everyone to cultivate a workplace that promotes mutual respect and inclusion.
- Often, when the harasser holds a senior or higher position in the office, those who have been harassed may choose to remain silent. It is not necessary for a person to object to or protest against the offending party in order to make the conduct unacceptable and establish its "unwelcome" nature.
- The EOC encourages those who encounter disability harassment to speak up and let the harasser know that their conduct is inappropriate. Employees should also support colleagues who have been subjected to harassment to end the situation. In addition, employers have a responsibility to maintain a harassment-free work environment.