

Conciliation Case

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Not Just A Compliment

THE COMPLAINT

"After working at the school for 3 years, I left feeling bitter and resentful," Kitty sighed.

"Our principal, the most awful boss I have ever met, took delight in paying unwarranted attention to my appearance. Every time I appeared in a new outfit or hairstyle, he would make some sly comments. Even though what he said sounded like a compliment, it felt like he was only interested in how I looked. I was so embarrassed to the point that I couldn't bear looking at him."

"One time, he sat so uncomfortably close to me in a taxi on our way to a business meeting that I had to ask him to back off. I guess he got offended, and so afterwards, he took revenge. Ever since that time, he kept picking on me and blaming me for the students' poor performance. He even indicated several times that I should resign!" Kitty felt intimidated by her boss's unwelcome sexual attention, and could no longer stand the increasing pressure of working for him. Eventually, she handed in her resignation.

WHAT THE EOC DID

At first, Kitty complained to the school's board about her boss's acts of sexual harassment, but no immediate action was taken. She then took the complaint to the EOC against her boss and the school. In response to Kitty's allegations, her boss said, "Excuse me? She's offended because I said she looked nice? I am really bewildered by this charge."

The EOC investigator explained to the two respondents the definition of sexual harassment under Sex Discrimination Ordinance and the liability issues concerned. The respondents opted for early conciliation during the process of investigation.

The school's board agreed to issue an advisory letter to the principal requesting him to improve his communication skills and management style. A good reference letter was provided to Kitty by the school. It was also included in the conciliation agreement that the principal would opt for early retirement in the following year.

WHAT THE LAW SAYS

Under the Sex Discrimination Ordinance, sexual harassment is what a reasonable person would regard as unwelcome sexual advance or other unwelcome conduct of a sexual nature which makes a person feel offended, humiliated or intimidated. Conduct of a sexual nature includes verbal remarks irrespective of whether they are blatantly uttered or subtly implied.

Employees of an organization are personally liable for their own acts of sexual harassment under the law. An employer is vicariously liable for the unlawful acts of sexual harassment committed by employees in the course of their employment, whether with or without knowledge or approval of such behaviour.

和解案例

通訊 2006 年 4 月 第 37 期

不簡單的讚美

投訴內容

「我在這學校工作已有三年，真想不到我竟要帶著苦澀與忿恨的心情離開。」潔儀慨嘆著說。

「這個校長是我遇過的上司中最令人反感的一個。他喜歡對我上下打量。當我每次穿上新裝或換新髮型，他都會品評一番，雖然表面上是讚美的說話，但我總覺得他太過注意我的外表，令我尷尬得不想多看他一眼。」

「有一次，我們乘搭計程車外出開會，在車廂中他不斷向我逼近，令我極不自在，最後我甚至要叫他坐開點。我猜他覺得被冒犯，因此向我進行報復。自此以後，他經常挑剔我的錯處，學生成績差便怪罪於我，他甚至數次表示我應辭職。」潔儀上司那些不受歡迎、涉及性的注視令她受到威嚇，與日俱增的無形壓力使潔儀不能再安心工作。最後，她提出請辭。

平機會的行動

最初，潔儀向校董會投訴上司性騷擾的行為，但校董會沒有立即採取行動，她於是向委員會投訴上司及校方。這名校長對潔儀的指稱有以下回應：「甚麼？她因為我的讚美而感到受冒犯？這指控真令人摸不著頭腦。」

委員會的調查主任向答辯人（校長）及答辯機構（校方）解釋《性別歧視條例》中性騷擾的定義，以及有關的法律責任。在調查期間，答辯人及答辯機構選擇以提早調解的方式來解決問題。

校董會同意向校長發出勸喻信，敦促他改善溝通技巧及管理方式。校方亦同意給潔儀一封推薦信，證明她工作表現良好。調解協議書內亦註明，校長將於明年提早退休。

法理依據

根據《性別歧視條例》，性騷擾是指任何不受歡迎和涉及性的行徑，而這些行為會令一個合理的人感到受冒犯、侮辱或威嚇。涉及性的行徑亦包括口頭上的言論，不論是高談闊論或只是向對方作出暗示。

根據法例，僱員需為自己的性騷擾行為負上個人責任；另一方面，不論僱主是否知悉或批准有關行為，僱主亦需為僱員在職期間所作的違法性騷擾行為負上轉承責任。

和解案例

通讯 2006 年 4 月 第 37 期

不简单的赞美

投诉内容

「我在这学校工作已有三年，真想不到我竟要带着苦涩与忿恨的心情离开。」洁仪慨叹着说。

「这个校长是我遇过的上司中最令人反感的一个。他喜欢对我上下打量。当我每次穿上新装或换新发型，他都会品评一番，虽然表面上是赞美的说话，但我总觉得他太过注意我的外表，令我尴尬得不想多看他一眼。」

「有一次，我们乘搭出租车外出开会，在车厢中他不断向我逼近，令我极不自在，最后我甚至要叫他坐开点。我猜他觉得被冒犯，因此向我进行报复。自此以后，他经常挑剔我的错处，学生成绩差便怪罪于我，他甚至数次表示我应辞职。」洁仪上司那些不受欢迎、涉及性的注视令她受到威吓，与日俱增的无形压力使洁仪不能再安心工作。最后，她提出请辞。

平机会的行动

最初，洁仪向校董会投诉上司性骚扰的行为，但校董会没有立即采取行动，她于是向委员会投诉上司及校方。这名校长对洁仪的指称有以下回应：「甚么？她因为我的赞美而感到受冒犯？这指控真令人摸不着头脑。」

委员会的调查主任向答辩人（校长）及答辩机构（校方）解释《性别歧视条例》中性骚扰的定义，以及有关的法律责任。在调查期间，答辩人及答辩机构选择以提早调解的方式来解决这个问题。

校董会同意向校长发出劝喻信，敦促他改善沟通技巧及管理方式。校方亦同意给洁仪一封推荐信，证明她工作表现良好。调解协议书内亦注明，校长将于明年提早退休。

法理依据

根据《性别歧视条例》，性骚扰是指任何不受欢迎和涉及性的行径，而这些行为会令一个合理的人感到受冒犯、侮辱或威吓。涉及性的行径亦包括口头上的言论，不论是高谈阔论或只是向对方作出暗示。

根据法例，雇员需为自己的性骚扰行为负上个人责任；另一方面，不论雇主是否知悉或批准有关行为，雇主亦需为雇员在职期间所作的违法性骚扰行为负上转承责任。