

Court Case

B v King of the King Group Limited

DCEO 9/2010

BACKGROUND FACTS

The Plaintiff was sexually harassed by a dim sum worker employed by the Defendant. The harassment incident involved the dim sum worker making a sexual remark and touching her chest. The Plaintiff complained to the Defendant, but it did not take any prompt action. When the Plaintiff wanted to report the harassment to the police, the Defendant pressured her not to do so or both she and the harasser would be dismissed.

The Defendant eventually arranged a meeting during which the harasser was told to apologize to the Plaintiff. However, he did so in a disrespectful manner. Aggravated by the harasser's disrespect, the Plaintiff slapped the harasser in the face. She was then dismissed by the Defendant. The Plaintiff filed a complaint with the EOC against the harasser and the defendant for sexual harassment and vicarious liability for the harassment respectively. The Plaintiff's claim against the harasser was settled via conciliation, while the Plaintiff's case against the Defendant was brought to the Court under the Sex Discrimination Ordinance (SDO).

COURT'S DECISION

The Court accepted the Plaintiff's evidence and found that the acts committed by the harasser amounted to unlawful sexual harassment. The Defendant, as the harasser's employer, was liable for his acts because it did not take reasonably practicable steps to prevent sexual harassment against the Plaintiff in the workplace. However, the Court ruled that the dismissal was because the Plaintiff slapped the harasser, not because she was sexually harassed or she is female. The Court awarded damages to the Plaintiff for injury to feelings in the sum of HK\$80,000, as well as costs to the Plaintiff.

[\[Click to Access the Court Ruling \(Only Available in Traditional Chinese\) \]](#)

法庭案例

B 訴 皇上皇集團有限公司

DCEO 9/2010

案情背景

原告人受到被告人所聘用的點心工人性騷擾。性騷擾事件涉及點心工人講了一些關於性的說話並觸摸她的胸部。原告人向被告人投訴，但被告人沒有採取任何即時的行動。當原告人希望報警時，被告人向她施壓，要求她不要這樣做，否則騷擾者和原告人都會被解僱。

被告人最終安排性騷擾者與原告人會面，騷擾者按照要求向原告人道歉，但他道歉時表現無禮，原告人被激怒之下掌摑了騷擾者。被告人隨即把她解僱。原告人其後向平機會提出投訴，分別追究騷擾者對她作出性騷擾和被告人在性騷擾事件上應負上的轉承責任。原告人針對性騷擾者而提出的申索已透過調解得以解決，而原告人對被告人的個案則根據《性別歧視條例》被帶上法庭。

法庭的裁決

法庭接納原告人的證據，並裁定騷擾者的作為構成了違法的性騷擾。被告人作為騷擾者的僱主，需為其僱員的作為負上法律責任，而被告人沒有採取合理可行的措施，防止原告人於工作間受到性騷擾。然而，法庭裁定，原告人是因為掌摑了騷擾者而被解僱的，而不是因為她被性騷擾或因為她是女性而被解僱。法庭判原告人獲得港幣 8 萬元的感情損害賠償及訟費。

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法庭案例

B 诉 皇上皇集团有限公司

DCEO 9/2010

案情背景

原告人受到被告人所聘用的点心工人性骚扰。性骚扰事件涉及点心工人讲了一些关于性的说话并触摸她的胸部。原告人向被告人投诉，但被告人没有采取任何实时的行动。当原告人希望报警时，被告人向她施压，要求她不要这样做，否则骚扰者和原告人都会被解雇。

被告人最终安排性骚扰者与原告人会面，骚扰者按照要求向原告人道歉，但他道歉时表现无礼，原告人被激怒之下掌掴了骚扰者。被告人随即把她解雇。原告人其后向平机会提出投诉，分别追究骚扰者对她作出性骚扰和被告人在性骚扰事件上应负上的转承责任。原告人针对性骚扰者而提出的申索已透过调解得以解决，而原告人对被告人的个案则根据《性别歧视条例》被带上法庭。

法庭的裁决

法庭接纳原告人的证据，并裁定骚扰者的作为构成了违法的性骚扰。被告人作为骚扰者的雇主，需为其雇员的作为负上法律责任，而被告人没有采取合理可行的措施，防止原告人于工作间受到性骚扰。然而，法庭裁定，原告人是因为掌掴了骚扰者而被解雇的，而不是因为她被性骚扰或因为她是女性而被解雇。法庭判原告人获得港币 8 万元的感情损害赔偿及讼费。

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