

Conciliation Case

Newsletter Oct 2004 Issue No. 31

No Pornography Please

THE COMPLAINT

"I was a site clerk and the only female employee in a small construction company. My daily work included ordering and receiving construction materials, and stock taking. The site manager, who is also the owner of the company, was responsible for sales and monitoring the progress of construction work. Usually he would include digital photos taken from the construction sites in his progress reports to clients. Occasionally he stared at these photos in a lewd way but I did not know why he acted like this until...

One day, he asked me to save some digital photos taken from a construction site in the computer. Without suspecting anything, I did as I was instructed. To my dismay, I found three photos of naked buttocks and private parts. I was very angry and humiliated. I could not work with him any more and I quit on the spot," said the complainant.

WHAT THE EOC DID

The EOC investigator looked into the complaint and sought information from both parties. The employer denied all allegations, stating that he had never taken or seen the photos. However, he was willing to resolve the matter by early conciliation. Early conciliation offers an alternative means to settle the case within a shorter time frame, and could be conducted at any stage before or during the process of investigation. The complainant, who did not want the case to drag on, also welcomed this approach. The settlement terms included a monetary compensation approximately equal to one-third of the complainant's monthly salary and a letter of apology. The employer also agreed to display anti-sexual harassment policy and materials adapted from the EOC's publications on the office notice board.

WHAT THE LAW SAYS

Sexual harassment is often dismissed by those not suffering from it as "just a bit of fun". In reality, it is a very specific form of sex discrimination and is against the law. Under the Sex Discrimination Ordinance, sexual harassment in employment is unlawful. Sexual harassment includes any unwelcome behaviour of a sexual nature which a reasonable person regards as offensive, humiliating or intimidating. Acts of sexual harassment may be direct or indirect, physical or verbal. Examples of such acts could be indecent or suggestive remarks, the display of pornography, the circulation of obscene materials, inappropriate touching and requests or demands for sexual favours etc.

和解案例

通訊 2004 年 10 月 第 31 期

謝絕「三級」

投訴內容

「我在一家小規模建築公司任職地盤文員，是唯一的女員工，日常工作主要負責訂購、接收建築材料及盤點。公司老闆其實也是地盤經理，負責銷售及監督工作。他通常會用數碼相機拍下地盤的工程進度，然後將照片傳送給客人。他間中會盯著那些相片，露出猥褻的笑容，我從不明白他為何會有這樣的表情，直至.....

有一天，他着我把一些數碼相機拍下的地盤照片儲存在電腦內。我不以為然，按指示去做。但令我震驚的是，我看到有三張裸露臀部及私處的相片。我感到十分憤怒及受辱，實在無法再與他一起工作，於是立即辭職。」

平機會的行動

委員會對有關投訴作出調查，並向雙方索取資料。僱主否認全部指控，聲稱他從未拍攝過或看過那些照片。不過他同意以提早調解的方式解決糾紛。提早調解是以較短的時間來解決問題的一種途徑，可於調查開始前或在調查中進行。由於投訴人不希望拖延事件，故也樂意提早調解。和解條款包括約相等於投訴人月薪三分一的金錢賠償，以及一封道歉信。僱主亦同意在公司報告板上張貼取材自委員會刊物的防止性騷擾政策及資料。

法理依據

對那些未曾身受其害的人而言，他們可能視性騷擾為「玩玩而已」。事實上，性騷擾是性別歧視的一種，亦是違法的行為。根據《性別歧視條例》，僱傭範疇內的性騷擾實屬違法行為。性騷擾包括任何涉及性而不受歡迎的行徑，而在一名合理的人眼裡，會預期這些行為令人感到被冒犯、侮辱及受威嚇。性騷擾行為可分為直接、間接、身體上或口頭上等等。例子包括：猥褻或挑逗性的言論、傳閱色情刊物、不恰當的身體接觸及提出涉及性方面的要求等，以上種種都屬性騷擾行為。

和解案例

通讯 2004 年 10 月 第 31 期

谢绝「三级」

投诉内容

「我在一家小规模建筑公司任职地盘文员，是唯一的女员工，日常工作主要负责订购、接收建筑材料及盘点。公司老板其实也是地盘经理，负责销售及监督工作。他通常会用数码相机拍下地盘的工程进度，然后将照片传送给客人。他间中会盯着那些相片，露出猥亵的笑容，我从不明白他为何会有这样的表情，直至.....

有一天，他着我把一些数码相机拍下的地盘照片储存在计算机内。我不以为然，按指示去做。但令我震惊的是，我看到有三张裸露臀部及私处的相片。我感到十分愤怒及受辱，实在无法再与他一起工作，于是立即辞职。」

平机会的行动

委员会对有关投诉作出调查，并向双方索取资料。雇主否认全部指控，声称他从未拍摄过或看过那些照片。不过他同意以提早调解的方式解决纠纷。提早调解是以较短的时间来解决问题的一种途径，可于调查开始前或在调查中进行。由于投诉人不希望拖延事件，故也乐意提早调解。和解条款包括约相等于投诉人月薪三分一的金钱赔偿，以及一封道歉信。雇主亦同意在公司报告板上张贴取材自委员会刊物的防止性骚扰政策及资料。

法理依据

对那些未曾身受其害的人而言，他们可能视性骚扰为「玩玩而已」。事实上，性骚扰是性别歧视的一种，亦是违法的行为。根据《性别歧视条例》，雇佣范畴内的性骚扰实属违法行为。性骚扰包括任何涉及性而不受欢迎的行径，而在一名合理的人眼里，会预期这些行为令人感到被冒犯、侮辱及受威吓。性骚扰行为可分为直接、间接、身体上或口头上等等。例子包括：猥亵或挑逗性的言论、传阅色情刊物、不恰当的身体接触及提出涉及性方面的要求等，以上种种都属性骚扰行为。