

Court Case
C v Hau Kar Kit
DCEO 10/2021

BACKGROUND FACTS

The Claimant was a female Event Coordinator of a recreation club. She worked with the Respondent who was a male Operations Manager in a senior position. The Claimant alleged that she was sexually harassed by the Respondent on at least ten occasions over the span of one year when they were co-workers at the club, contravening section 2(5), when read together with 23(3) of the SDO.

After the first sexual harassment incident in which the Respondent stroked the Claimant's back, he was cautioned by the club management not to have physical contact with her again. However, he continued to sexually harass the Claimant by subjecting her to unwelcome physical touch (e.g. pressing his chest against her back) and attention of a sexual nature by staring at her chest and legs. The Claimant eventually resigned from her employment due to persistent distress caused by the Respondent's continuing acts of sexual harassment.

The EOC represented the Claimant in bringing legal proceedings against the Respondent. Interlocutory judgment on liability was entered against the Respondent.

At the hearing for the assessment of damages, apart from the Claimant's testimony, a former colleague of the Claimant who had witnessed several of the sexual harassment incidents also gave evidence in Court. The Respondent did not file any documents in the action nor did he attend the hearing for the assessment of damages.

COURT'S DECISION

The Court awarded damages to the Claimant for injury to feelings, exemplary damages, interest and costs.

Injury to feelings

The Court accepted the Claimant's evidence and allowed her claim for HK\$80,000 in damages for injury to feelings in full to mark the degree of embarrassment, humiliation, emotional distress and anxiety caused by the Respondent's repeated sexual harassment acts. Although each of the Respondent's unlawful acts singularly was not as serious and sexually explicit as those in [L v Burton DCEO15/2009](#), the Judge recognised that the repetitive nature of the multiple harassing acts over an extended period of over a year, and which had continued despite the Claimant's complaints, had rendered the Respondent's exploitation of the imbalance of power comparable to that in L v Burton.

The Court accepted that the Claimant was progressively offended and distressed by the Respondent's persistent harassment acts, which eventually led her to resign from a job which she treasured so as to avoid further harassment from the Respondent.

Exemplary damages

The Court awarded HK\$10,000 in exemplary damages to the Claimant as the compensatory award was inadequate to punish the Respondent, who remained undeterred in his harassment acts despite caution from his former employer (i.e. the club). The Judge took into account the relatively junior position of the Claimant which rendered her vulnerable to the unlawful conduct of the Respondent in the workplace. The Claimant's psychological distress was further aggravated during the EOC complaint process during which the Respondent failed to provide any reasonable explanation for the harassment incidents. Thus exemplary damages were required to mark the disapproval of the Court towards the Respondent's outrageous conduct and abuse of power.

Costs

The Court held that there were special circumstances which warranted an award of costs against the Respondent. The Respondent had known from the outset that his conduct was wrong, yet continued his unwelcome sexual harassment to the Claimant for over a year. Moreover, not only did the Respondent fail to put forward any valid justification for his actions, he chose not to respond to the Claimant or the EOC prior to the commencement of litigation, and he failed to participate in the present proceedings.

[\[Click to Access the Court Ruling \]](#)

法庭案例

C 對 侯家傑

DCEO 10/2021

案情背景

申索人在某私人俱樂部任職活動統籌員，她指稱被同樣在俱樂部工作但位居高層的男性營運經理（答辯人）性騷擾。她在俱樂部工作時，答辯人曾在一年內性騷擾她至少十次，違反了《性別歧視條例》第 2(5)條與 23(3)條。

在第一次性騷擾事件中，答辯人撫摸申索人的背部後，俱樂部管理層警告答辯人不可再與申索人有身體接觸，但他繼續對申索人進行性騷擾，對她進行不受歡迎的身體接觸（例如把自己的胸部壓向申索人的背部），並以涉及性的眼光盯着申索人的胸部和腿部。申索人因答辯人的持續性騷擾行為而飽受困擾，最終決定辭職。

就此案件，平機會代表申索人向答辯人提出法律訴訟。法庭對答辯人作出了須負上法律責任的非正審判決。

在評估損害賠償的聆訊上，除了申索人作證，申索人的前同事也在庭上作證，並表示曾好幾次目睹答辯人性騷擾申索人。答辯人沒有提交任何文件，也沒有出席評估損害賠償的任何聆訊。

法庭的裁決

法庭判申索人獲得感情損害賠償、懲罰性損害賠償、利息及訟費。

感情損害賠償

法庭接納申索人的證據，並同意她的索賠，判她獲得 80,000 港元感情損害賠償，以顯示答辯人持續的性騷擾行為給申索人帶來的尷尬、侮辱、情緒困擾和焦慮。儘管答辯人的個別違法性騷擾行為不及 [L 對 Burton DCEO15/2009](#) 一案中的行為嚴重，涉及性的成分也沒有該案件的明顯，但法官認為答辯人在長達一年以上的時間裏反復進行多次的性騷擾行為，而且即使申索人作出投訴，答辯人仍持續這些行為，可見答辯人利用自己與申索人的權力不對等關係而作出性騷擾，與 L 對 Burton 一案中的情況相若。

法庭接納申索人被答辯人持續性騷擾，導致她受到冒犯和困擾的情況越勢嚴重，最終導致她為免再被答辯人性騷擾而辭去一直重視的工作。

懲罰性損害賠償

法庭表示即使答辯人被前僱主（即俱樂部）警告，仍然沒有停止性騷擾行為，認為補償性賠償不足以懲罰答辯人，因此判給申索人 10,000 港元的懲罰性損害賠償。法官考慮到申索人因職位較低，使她容易成為答辯人在工作間違法行為的受害者。答辯人在平機會處理投訴期間，沒有就騷擾事件提供任何合理解釋，使申索人心理困擾進一步加劇。因此，法庭必須判給懲罰性損害賠償，以示法庭對答辯人的嚴重不當行為和濫用權力的譴責。

訟費

法庭認為存在特殊情況，使得答辯人須向申索人支付訟費。答辯人從一開始便應知道自己的行為是錯誤的，但他在一年多的時間裏仍持續向申索人進行不受歡迎的性騷擾。此外，答辯人不但沒有就其行為提出任何合理辯解，而且在訴訟前選擇不對申索人或平機會的行動作出回應，也沒有參與當前的評估損害賠償的聆訊。

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法庭案例

C 对 侯家杰

DCEO 10/2021

案情背景

申索人在某私人俱乐部任职活动统筹员，她指称被同样在俱乐部工作但位居高层的男性营运经理（答辩人）性骚扰。她在俱乐部工作时，答辩人曾在一年内性骚扰她至少十次，违反了《性别歧视条例》第 2(5)条与 23(3)条。

在第一次性骚扰事件中，答辩人抚摸申索人的背部后，俱乐部管理层警告答辩人不可再与申索人有身体接触，但他继续对申索人进行性骚扰，对她进行不受欢迎的身体接触（例如把自己的胸部压向申索人的背部），并以涉及性的眼光盯着申索人的胸部和腿部。申索人因答辩人的持续性骚扰行为而饱受困扰，最终决定辞职。

就此案件，平机会代表申索人向答辩人提出法律诉讼。法庭对答辩人作出了须负上法律责任的非正审判决。

在评估损害赔偿的聆讯上，除了申索人作证，申索人的前同事也在庭上作证，并表示曾好几次目睹答辩人性骚扰申索人。答辩人没有提交任何文件，也没有出席评估损害赔偿的任何聆讯。

法庭的裁决

法庭判申索人获得感情损害赔偿、惩罚性损害赔偿、利息及讼费。

感情损害赔偿

法庭接纳申索人的证据，并同意她的索赔，判她获得 80,000 港元感情损害赔偿，以显示答辩人持续的性骚扰行为给申索人带来的尴尬、侮辱、情绪困扰和焦虑。尽管答辩人的个别违法性骚扰行为不及 [L 对 Burton DCEO15/2009](#) 一案中的行为严重，涉及性的成分也没有该案件的明显，但法官认为答辩人在长达一年以上的时间里反复进行多次的性骚扰行为，而且即使申索人作出投诉，答辩人仍持续这些行为，可见答辩人利用自己与申索人的权力不对等关系而作出性骚扰，与 L 对 Burton 一案中的情况相若。

法庭接纳申索人被答辩人持续性骚扰，导致她受到冒犯和困扰的情况越势严重，最终导致她为免再被答辩人性骚扰而辞去一直重视的工作。

惩罚性损害赔偿

法庭表示即使答辩人被前雇主（即俱乐部）警告，仍然没有停止性骚扰行为，认为补偿性赔偿不足以惩罚答辩人，因此判给申索人 10,000 港元的惩罚性损害赔偿。法官考虑到申索人因职位较低，使她容易成为答辩人在工作间违法行为的受害者。答辩人在平机会处理投诉期间，没有就骚扰事件提供任何合理解释，使申索人心理困扰进一步加剧。因此，法庭必须判给惩罚性损害赔偿，以示法庭对答辩人的严重不当行为和滥用权力的谴责。

讼费

法庭认为存在特殊情况，使得答辩人须向申索人支付讼费。答辩人从一开始便应知道自己的行为是错误的，但他在一年多的时间里仍持续向申索人进行不受欢迎的性骚扰。此外，答辩人不但没有就其行为提出任何合理辩解，而且在诉讼前选择不对申索人或平机会的行动作出响应，也没有参与当前的评估损害赔偿的聆讯。

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