

Court Case

Sri Wahyuni v Lam Yui Sang (林銳生)

DCEO 4/2023

BACKGROUND FACTS

The Claimant, who was employed by the Respondent as a foreign domestic helper, alleged that the Respondent committed unlawful sexual harassment against her on multiple occasions during her 17 days' employment from 17 February 2022 to 5 March 2022.

For instance, on one occasion after taking a shower, the Respondent came up closely to the Claimant and sniffed several times the fragrance from her hair and body and stated that the Claimant smelled nice (“好香”). After this incident, the Claimant immediately put herself on guard whenever interacting with the Respondent and took covert audio recordings to protect herself.

The Claimant's covert audio recording captured the following sexual advances made by the Respondent, including:

1. 「好多人都有老公架喇，好多人都結咗婚架啦，咁都會有感情架，都會同第二個男人有感情架。」 (Translation: Many people have husbands. Many people are married. They would still have feelings and would also have feelings for another man.)
2. 「我想搵到個好嘅工人姐姐同我生一個仔，同我結婚，同我生個仔我係咁樣想嘅…」 (Translation: I want to find a good domestic helper to give birth to a son for me. Marry me and give birth to a son for me. This is what I want.)
3. 「我話我喜歡你，你話你唔喜歡我咪算囉！」 (Translation: I say I like you. You say you don't like me. Then just leave it like that.)
4. 「諗都諗到我要啲咩吓話，孤男寡女喺度。」 (Translation: You can think what I want. Only single man and woman here.)
5. 「你肯嚟我呢度返工做嘢，諗都諗到係想，想同你發生關係架啦，你又唔係，你又唔係未結婚，30 幾歲人喇，諗都諗到吓嘛…見到你好靚，你個樣好靚呀。」 (Translation: You came to work for me. You can think that I wanted to have a relationship with you. You are not...you are not unmarried. You are over 30 years old and can think. I find you attractive and you have a pretty face.)
6. 「[答辯人之前聘請的外籍女傭] 肯同我搞啲咩嘢嘛，佢肯嘅，即係畀啲錢佢肯嘅。嗰陣時佢 23 歲，佢肯架。即係畀啲錢佢肯嘅。」 (Translation: [The previous foreign domestic helper employed by the Respondent] was willing to mess around with me. She was willing to do that. I gave her some money and she was willing to do so. At that time she was 23 years old. She was willing to do so. I gave her some money and she was willing.)

On another occasion, the Respondent suggested giving HK\$600 to the Claimant in return for sex with him. The Claimant clearly and firmly rejected each of the Respondent's above unwanted sexual advances and/or requests for sexual favours.

On 5 March 2022, after a serious dispute with the Respondent, the Claimant called the Police out of fear for her own safety and moved out from the Respondent's residence with the assistance of the employment agency.

The Claimant lodged a complaint with the EOC. The EOC's legal team represented the Claimant in bringing legal proceedings against the Respondent at the District Court under the Sex Discrimination Ordinance (SDO).

COURT'S DECISION

The Court found that there was a clear case of sexual harassment under the SDO. The Court awarded damages to the Claimant for injury to feelings, loss of earnings, and exemplary damages as follows:

Injury to Feelings:	HK\$60,000
Loss of Earnings:	HK\$112,387.30
Exemplary Damages:	HK\$10,000
	HK\$182,387.30

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法庭案例

Sri Wahyuni 及 林銳生

DCEO 4/2023

案情背景

申索人受僱於答辯人為外籍家庭傭工，指稱答辯人在她於 2022 年 2 月 17 日至 2022 年 3 月 5 日受僱的 17 天期間，多次對她進行非法性騷擾。

例如，有一次申索人沐浴後，答辯人靠近她，數次嗅她的頭髮和身體的氣味，並說「好香」。發生這次事件後，申索人與答辯人接觸時均即時提高警覺，而且暗中錄音以保障自己。

申索人暗中進行的錄音，記錄了以下答辯人提出的性要求：

1. 「好多人都有老公架喇，好多人都結咗婚架啦，咁都會有感情架，都會同第二個男人有感情架。」
2. 「我想搵到個好嘅工人姐姐同我生一個仔，同我結婚，同我生個仔我係咁樣想嘅...」
3. 「我話我喜歡你，你話你唔喜歡我咪算囉!」
4. 「諗都諗到我要啲咩啦吓話，孤男寡女喺度。」
5. 「你肯嚟我呢度返工做嘢，諗都諗到係想，想同你發生關係架啦，你又唔係，你又唔係未結婚，30 幾歲人喇，諗都諗到吓嘛...見到你好靚，你個樣好靚呀。」
6. 「[答辯人之前聘請的外籍女傭]肯同我搞啲咩嘢嘛，佢肯嘅，即係畀啲錢佢肯嘅。嗰陣時佢 23 歲，佢肯架。即係畀啲錢佢肯嘅。」

另一次，答辯人提出以 600 港元與申索人性交。申索人明確並堅決拒絕答辯人上述每一次不受歡迎的性要求及 / 或獲取性方面的好處的要求。

2022 年 3 月 5 日，申索人與答辯人激烈爭執後，因擔心自身安全而報警，並在僱傭中介公司協助下遷出答辯人住所。

申索人向平機會提出投訴，平機會的法律團隊代表申索人根據《性別歧視條例》在區域法院向答辯人提起法律訴訟。

法庭的裁決

法庭認為此案明顯構成《性別歧視條例》所指的性騷擾，判申索人可獲得感情損害賠償、收入損失賠償及懲戒性損害賠償。詳情如下：

感情損害：	60,000 港元
收入損失：	112,387.30 港元
懲戒性損害：	10,000 港元
	182,387.30 港元

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法庭案例

Sri Wahyuni 及 林锐生

DCEO 4/2023

案情背景

申索人受雇于答辩人为外籍家庭佣工，指称答辩人在她于 2022 年 2 月 17 日至 2022 年 3 月 5 日受雇的 17 天期间，多次对她进行非法性骚扰。

例如，有一次申索人沐浴后，答辩人靠近她，数次嗅她的头发和身体的气味，并说「好香」。发生这次事件后，申索人与答辩人接触时均实时提高警觉，而且暗中录音以保障自己。

申索人暗中进行的录音，记录了以下答辩人提出的性要求：

1. 「好多人都有老公架喇，好多人都结咗婚架啦，咁都会有感情架，都会同第二个男人有感情架。」
2. 「我想搵到个好嘅工人姐姐同我生一个仔，同我结婚，同我生个仔我系咁样想嘅...」
3. 「我话我喜欢你，你话你唔喜欢我咪算㗎！」
4. 「谗都谗到我要啲咩吓话，孤男寡女喺度。」
5. 「你肯嚟我呢度返工做嘢，谗都谗到系想，想同你发生关系架啦，你又唔系，你又唔系未结婚，30 几岁人喇，谗都谗到吓嘛...见到你好靓，你个样好靓呀。」
6. 「[答辩人之前聘请的外籍女佣]肯同我搞啲咩嘢嘛，佢肯嘅，即系畀啲钱佢肯嘅。嗰阵时佢 23 岁，佢肯架。即系畀啲钱佢肯嘅。」

另一次，答辩人提出以 600 港元与申索人性交。申索人明确并坚决拒绝答辩人上述每一次不受欢迎的性要求及 / 或获取性方面的好处的要求。

2022 年 3 月 5 日，申索人与答辩人激烈争执后，因担心自身安全而报警，并在雇佣中介公司协助下迁出答辩人住所。

申索人向平机会提出投诉，平机会的法律团队代表申索人根据《性别歧视条例》在区域法院向答辩人提起法律诉讼。

法庭的裁决

法庭认为此案明显构成《性别歧视条例》所指的性骚扰，判申索人可获得感情损害赔偿、收入损失赔偿及惩戒性损害赔偿。详情如下：

感情损害：	60,000 港元
收入损失：	112,387.30 港元
惩戒性损害：	10,000 港元
	182,387.30 港元

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