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Psychological employment injuries: must the employer foot the bill?

The number of files presented to the Commission de la santé et de la sécurité du travail ("CSST") by workers who allege having sustained psychological damage is on the rise. Such a condition may allow the worker to obtain compensation, provided he has suffered an "employment injury" under the law.

But how can working conditions be the cause of a psychological employment injury?

Such is the question that the Commission des lésions professionnelles ("CLP") had to address in a recent case[1] where the employer was represented by Jason S. Novak, from our firm.

The context

The worker had filed a claim with the CSST, alleging to have sustained a psychological injury. He claimed to have been a victim of psychological harassment from his employer. The psychiatric evaluation concluded that he was suffering from major depression caused by his work.

The evidence revealed that the working relations within the firm were rather tense since the employer was losing money and was the target of shady activity.

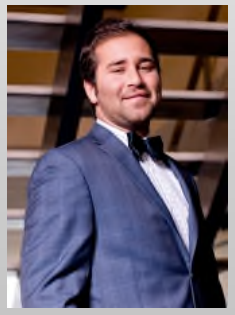
On the other hand, the worker had an unusual emotional link to the company and to his job, and had a rather inaccurate understanding of the role that managers, and that he himself, were to play in the company.

The decision

After a thorough review of the evidence and applicable legal principles, the CLP confirmed the earlier decision of the CSST that had denied compensation to the worker, declaring that his condition was not an employment injury.

The decision was based on the well-established principle that an employer must use its management rights reaso-

Jacques Bélanger
514 393-4018
jbelanger@rsslex.com



Jason S. Novak
514 393-4042
jnovak@rsslex.com

[1] *R.B. et Compagnie A*, 2015 QCCLP 565 (CanLII), <http://canlii.ca/t/gg5vq>.

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nably, carefully and diligently, taking necessary precautions to exercising them in a normal fashion.

Although psychiatric evidence revealed that the worker's severe depression had been caused by events that had occurred at work, the worker had the burden of adducing on a balance of probabilities, and in an objective manner, that the circumstances were traumatic and beyond usual and normal.

The CLP concluded that the worker was responsible for his own condition: his behaviour, his attitudes had been dictated by his exceptional sympathy for his brother, a former executive with the company, still in contact with it, but who was suspected of misconduct. The worker had placed himself in a situation of untenable conflict whereas he was himself also suspected of misbehaviour.

The employer's position

As each case involving a worker's right to compensation, this file was crucial for the employer's financial and organizational record. In this very case, at the time of the hearing, the worker was still unable to work, as he was since the alleged injury had been sustained, in June, 2011. The CLP's decision relieves the employer from having to be held responsible for four years of compensation and benefits paid to the worker, which would have had a negative impact on the employer's rate of contribution.

As an employer, you do have management rights over your business and your employees. However, the manner in which you exercise those rights can cause working conditions likely to end up with an employment injury and lead you before the CSST.

If the working conditions in your company become exceptionally tense, or if you have an employee showing early signs of breakdown, keep in mind that prevention then becomes essential.

For guidance and assistance on these matters, contact:

Jacques Bélanger
514 393-4018
jbelanger@rsslex.com

Jason S. Novak
514 393-4042
jnovak@rsslex.com)

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