

REVIEW DECISION

Re: Review Reference #: R0327688
Board Decision under Review: July 31, 2024

Date: March 27, 2025

Review Officer: Seeley Munro

Introduction and Background

The worker submitted a complaint of bullying and harassment to the Workers' Compensation Board ("Board"), which operates as WorkSafeBC. In his April 30, 2024 Bullying and Harassment Questionnaire, the worker described two incidents of bullying and harassment, one in approximately April 2023 and then one in April 2024.

A Board Occupational Safety Officer ("OSO") issued an Inspection Report ("IR"), dated May 30, 2024. The IR asked the employer to provide a summary of its follow up and investigation into the worker's complaints.

The Board issued a follow-up IR, dated July 31, 2024, which is the subject of this review. The July 31, 2024 IR stated that the employer's response was compliant with the Board's requirements. I interpret this IR as containing a decision of the Board refusing to issue an order to the employer under section 21(1)(a) of the *Act*. As a result, sections 20(3) and 268(1)(a) of the *Act* give me the jurisdiction to review this matter.

The worker requests a review of this decision and has provided written submissions on the request for review form. The worker submits that the employer failed to properly investigate and provide him with the outcome of the April 2023 incident.

There are no other parties to this review. At the Review Division's request, the Occupational Safety Officer ("OSO") who issued the July 31, 2024 IR provided comments addressing the worker's submissions and further explaining her decision not to issue an order against the employer. The Review Division disclosed the OSO's comments to the worker, who did not provide further submissions in response.

Section 20(3) of the *Workers Compensation Act* ("*Act*") gives me the authority to conduct this review. Section 339(2) of the *Act* requires me to make a decision on the merits and justice of the case, applying the policies of the board of directors applicable in the case. The policies are found in the *Prevention Manual*. The standard of proof that applies to this review is the balance of probabilities.

Issue

The issue before me on this review is whether the Board should have issued an order to the employer under section 21(1)(a) of the *Act*.

Reasons and Decision

Under section 21(1)(a) of the *Act*, an employer must ensure the health and safety of all workers working for that employer, and any other workers present at a workplace at which the employer's work is being carried out. This is a general duty section, and an employer is obligated to take reasonable steps to protect the health and safety of workers in the workplace.

Further to section 21 of the *Act*, policy P2-21-2, *Employer Duties – Workplace Bullying and Harassment*, discusses the nature of an employer's obligation as it relates to bullying and harassment in the workplace. This policy states that bullying and harassment:

- (a) includes any inappropriate conduct or comment by a person towards a worker that the person knew or reasonably ought to have known would cause that worker to be humiliated or intimidated; but,
- (b) excludes any reasonable action taken by an employer or supervisor relating to the management and direction of workers or the place of employment.

Policy P2-21-2 also sets out reasonable steps that an employer should take to prevent, where possible, or otherwise minimize, the hazard of workplace bullying and harassment. These steps include:

- developing a policy statement regarding bullying and harassment not being acceptable or tolerated;
- developing and implementing procedures for workers to report incidents or complaints including how, when and to whom a worker should report incidents or complaints;
- developing and implementing procedures for how the employer will deal with incidents or complaints, including how and when investigations will be conducted, what will be included in the investigation and roles and responsibilities of employers, supervisors, workers and others;
- training supervisors and workers on recognizing, responding to and reporting bullying and harassment; and
- applying and complying with the employer's policies and procedures on bullying and harassment.

In addition, Guideline G-P2-21(1)-3, *Bullying and Harassment*, provides guidance on the application of the Board's policy. The Guideline explains that the Board's focus is to ensure that employers have implemented policies and have an appropriate framework for dealing with bullying and harassment, including investigating complaints and taking corrective action if bullying and harassment has occurred.

As a result, the Board's role is not to decide the merits of the worker's bullying and harassment complaint or to resolve labour relations disputes between the worker and the employer. If the employer took reasonable steps, as contemplated in the policy, in investigating the worker's complaint and addressing any workplace bullying and harassment, it has met its obligations under section 21(1)(a) of the *Act*, and an order should not be issued.

In terms of an employer's investigation into a worker's complaints, the Guideline provides that such an investigation should:

- Be undertaken promptly and diligently, and be as thorough as necessary in the circumstances;
- Be fair and impartial, providing both the complainant and the subject of the complaint fairness in evaluating the allegations;
- Be sensitive to the interests of the parties, and maintain confidentiality to the extent possible in the circumstances;
- Be focused on finding facts and evidence, including interviews of the complainant, the subject, and any witnesses; and
- Incorporate, where necessary, the need for both the complainant and the subject of the investigation to have assistance during the investigation process.

The Guideline further states that, following the investigation, the employer must promptly take any necessary corrective action.

In his April 30, 2024 Questionnaire, the worker advised that a year prior, he had been "berated, belittled, humiliated and intimidated" in front of colleagues and clients. He said that on April 15, 2024, the same thing happened. The worker said he reported this new incident shortly after it occurred and then went off work. The worker advised that he is a person with disabilities and his existing mental health issues had been triggered.

I note that in a May 31, 2024 email to the Board, a representative of the employer ("B") explained the employer's response to the worker's complaints. B advised that, although the worker had not filed formal complaints, the employer took the worker's complaints seriously.

B said he interviewed the parties involved in the worker's complaints to determine the validity of each complaint and "to ensure a safe and inclusive

environment for all staff.” B said he also recorded this information on an incident investigation form. B indicated that the employer concluded in both cases that the allegations did not rise to the level of bullying or harassment.

Regarding the first incident (April 2023), the employer determined that “there was no cause for further action.” B said that after the second incident, in April 2024, given that there was a pattern of behaviour from the employee in question, the employer’s human resources committee met to review the findings of the investigation.

B explained that, in order to “avoid potential conflicts, real or perceived,” the employer implemented a return to work plan with a “modified reporting structure” so the worker could “avoid any further personality conflicts.” In addition, B said that at the next staff meeting, the employer planned to review with all staff its bullying and harassment policy and reporting procedure.

In her March 7, 2025 comments, the OSO noted that the employer indicated in a telephone call with the Board that the worker declined to participate in its investigations, beyond the information he provided at the time he lodged his complaints with the employer. The OSO also noted that the worker continued to work after the first incident (in 2023).

As noted above, the worker went off work following the second incident. The OSO explained that the worker would have to return to work to undergo the employer’s bullying and harassment training. The OSO said it was her understanding that the worker had not yet given the employer the opportunity to implement the return-to-work plan (i.e., with the modified reporting structure).

The worker submits that the employer has failed to provide clear direction regarding direct reports, for the purpose of bullying and harassment. The worker also says he has not received any training on bullying and harassment. He submits that neither the Board nor the employer spoke with his witness regarding the April 15, 2024 incident.

As noted, however, the employer has provided a return to work plan and modified its reporting structure so that the worker can avoid any alleged bullies. In addition, as noted, the training would be available to the worker once he returns to work. Finally, the employer is entitled to carry out its investigation as it sees fit. While the worker now submits that he had a witness to the April 15, 2024 incident, I accept the employer’s evidence that the worker chose not to participate in its investigation beyond lodging an initial complaint.

In my view, the employer undertook its investigations reasonably promptly after it received the worker’s complaints in 2023 and 2024. Furthermore, I accept that the employer obtained evidence from the parties involved in the complaints. The

employer documented and communicated its findings and took what I consider to be appropriate follow-up action in response to the second complaint.

As noted above, the Board's role is not to decide the merits of a worker's bullying and harassment complaint or to resolve labour relations disputes. Rather, the question is whether the employer appropriately investigated the worker's complaint, addressed his allegation of bullying and harassment and thus met its obligations under section 21(1)(a) of the *Act*. For the reasons noted above, I find that it did.

I conclude that the employer took reasonable steps by appropriately investigating the worker's complaints and addressing his allegations of bullying and harassment and thus met its obligations in compliance with section 21(1)(a) of the *Act*. Therefore, an order is not warranted.

Accordingly, I deny the worker's request on this review.

Conclusion

As a result of this review, I confirm the Board's July 31, 2024 decision.

Seeley Munro (She, Her, Hers)
Review Officer
Review Division