

Case study on consent in sexual harassment

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What is sexual analysis?

Sexual analysis can be termed to be any unwelcome visual physical or verbal conduct which is persuasive in nature and may affect ones way of life at the place of work or even jeopardize their employment. When a conduct is welcome, it ceases to be sexual harassment. By physical we mean assault, blocking or impeding movement, and kissing, hugging, inappropriate touching or touching of personal clothing, patting stroking and the like.

Non verbal means derogatory gestures, looking up and down a person's body or even facial expression of a sexual nature following a person. Visual may be used to mean drawing, pictures, posters, emails or screensaver of sexual nature. Verbal may be used to refer to the comments made about the person behavior, clothing, requesting sexual favors, comments on a persons body, sexual or sex-based jokes, repeatedly asking a person out, talking on gossiping about a persons personal life or sex life threatening a person or even asking a person out repeatedly.

Conduct may be of a sexual nature or may not be of a sexual nature. Sexual nature conduct may include among others verbal conduct, non verbal, visual, physical all that if it is unwelcome persuasive or severe. Non sexual nature conduct may be sexual harassment if one is harassed because of their gender. For example if one is a female and is harassed for example one is working in a male dominated job, and happens to be despised because she is a female, that will be considered sexual harassment. For example if a lady vehicle mechanic working with all male, then she finds that they hide some of her tools this can be considered sexual harassment (Barry 4).

Sexual harassment must also be either persuasive or severe. One incident that happens not to be persuasive or severe can not be considered sexual harassment. However, for the case of a rape, it is considered sexual harassment because it is severe persuasive and against the law. One incidence an unwanted sexual suggestion or a comment or even a single request of a date can not be considered sexual harassment. However, a number of these incidents may be combined to add up to sexual harassment if these incidents affect the work place.

These are some question that we ask ourselves to assess whether the conduct is persuasive. How many people have reported being sexually harassed? How many times has it occurred or even how has this harassment been going on? If you are refused a promotion, fired, demoted, reassigned to lower undesirable duties or given a poor performance evaluation because you rejected a sexual advancement that is considered sexual harassment.

When the conduct unreasonably interferes with the performance at work or even creates a hostile, intimidating or even offensive work condition no matter whether it affects you financially or change the status of the job it is considered sexual harassment. For example it will be considered an sexual harassment if some sexual related comment are repeatedly made and they make you uncomfortable or even make you decline professional opportunities since it will put you in contact with harasser. (Barry, 6-17)

ISSUES/ PROBLEMS

We come up with a question does sexual harassment still exist? Why is there still sexual harassment in work places? Sexual harassment is there, alive and

very well. This brings the proves or gives us the possibility that Vinson might have experienced sexual harassment. She says that she had an affair with Taylor for a period of 3 years. She further says that she did not like some situations. We can not be very sure that all the incidences were sexual harassment as we are not sure that she was actually sexually harassed outside the office. www.teknolaw.com/template.asp?articleid64

Sexual harassment may be of two types. There is the hostile environment sexual harassment and there is the quid pro quo sexual harassment. Hostile environment sexual harassment only exists when is one co-worker makes sexual advancement so severe that they make the worker uncomfortable to an extent that they are not able to conduct their duties. In this case, an occasional sexual comment may not be quite enough but repeated or rather consistent and prevalent.

Under harassment, we find that or rather we can say that Vinson was sexually harassed by Taylor as she tells us that their affair lasted for three and half years. Also she says that they had intercourse at different places during work time and after work. There is no person who really respects herself would expect to have sex in the office during working hours it seems that Vinson attempt to reject the advances where unfruitful and thus these was a hostile environment sexual harassment. www.teknolaw.com/template.asp?articleid=64

The other type of harassment exists is known as Quid pro quo sexual harassment. This exists where a supervisor pressures a subordinate member of staff for sexual favor in exchange for favorable jobs assignment promotion, staying employed or other job favors. In the case of Vinson, she <https://assignbuster.com/case-study-on-consent-in-sexual-harassment/>

says that she was having an affair with her supervisor at the city state federal saving and loan. It can be termed as a Quid pro quo sexual harassment because the one she was involved with was her supervisor her supervisor had turned her down on several occasions but she finally gave in. she says also that Taylor claimed that she 'owed' him because he had obtained the job for her.

This means that Taylor wanted to get sexual involvement with Vinson because or rather to pay for the debt of getting a job. Just like anybody else would do Vinson just cooperated because she risked losing her job. This means that Vinson did not welcome the Taylor's sexual advancements and just gave in to protect jeopardy in her job. This can be termed sexual harassment. She also claims that sometimes she was actually assaulted or raped. This also is a clear indications that Taylor advancements were not welcome and that she was actually sexually harassed.

PROPOSITION

Thus it is evident that Taylor indeed sexually harassed Vinson and should be charged under the law. But on the other hand, what should the institution do to avoid such cases of sexual harassment in the future? What should Vinson do to be served or to have her right reinstated. There are rights that an organization should do to prevent such occurrence of sexual harassment in an organization. As in Vinson she should use the law to get justice done to her. Sexual harassment happens to be against the law and these are laws designed to protect employees against sexual harassment.

Such law is the federal law which prohibits sexual harassment at work place. Title VII of the 1964 civil rights makes coming employers responsible for stopping or rather preventing occurrence of sexual harassment that may occur on the job. This article applies to public sector, labor organization, private employers, joint employer-union apprenticeship and employment agencies with over 15 employees. Capital city federal savings and loan falls under one of these category and Vinson was supposed to be protected by these law well the correct measures taken.

Also, the California state law on fair employment and housing Act prohibits all sexual harassment that may be there in employment. It also applies to private, public employers, labor organization, state licensing boards, local government and state governments that have one or more employees. Just like California, other states have their law that makes any form of sexual harassment illegal. Also, I would advice Vinson that she can visit Equal Rights advocate and counseling to be referred to the local attorney. www.equalrights.org/publications/kyr/sexhar.pdf.

DECISION AND RECOMMENDATION

Sexual harassment should be prevented at work place in future to prevent such people being victimized. This can be realized through taking a number of stages so that employees can be protected.

1. Under the state law it is the employers responsibility to protect the employees. There are no specific steps an employer may take to those who sexually harass others at the work place. However an employer may satisfy some requirements of a reasonable care to be taken to

prevent his employees from harassment. This the employer can achieve by making or rather having and distributing to employees policy prohibiting sexual harassment and if possible informing the employees on how to deal or make complaints incase of harassment. However, these days people may be falsely caused of getting involved in sexual harassment. For this reason, big companies are so serious about sexual harassment that they often terminated on the grounds of sexual harassment. This is a serious bow to the person who is terminated as it would be very difficult for such person to get another job. However before the company decides on this, it should follow is internal grievance process or procedure. Employees should report the sexual harassment to their employers as this may stop the harasser from advancing. equalrights.org/publications.kyr/sexhar.pdf.

2. As an option also, Vinson may visit an equal rights advocate. There are the organizations that are involved with multi lingual advice and counseling hotline. It gives advice to affected people and also gives them information on their legal rights. If Vinson decides to visit one of these institutions she will be able to know here right and be able to take some more steam actions. One of the advantage of this institution is that they are toll- free as they will not charge one of the services offered. Also some of the employees may fear to speak out to their employers, as in some cases the employer may be the one who is actually harassing the employee with the Equal Rights Advocate one is free to report the incidence or incidences and does not fear to risk loosing their job. This would have been an ideal step for Vinson as the

party involved was her supervisor and it may have been too difficult to launch a complaint.

- Then the third option is the one that Vinson sought. The resources. The US Equal employment opportunity commission (EEOC) is the federal agency that enforces federal laws against discrimination. In this one, a solution is sought through the court of law and the parties involved are charged and tried in the court of law. It is good to look into this especially in a case where the assailant is the supervisor or the top official and there is nowhere else to report in the organization. The advantage of this these are the consideration of all parties and the court rules the case fairly.

There are already and hidden cost that comes hand in hand with harassment. Every employer would prefer or would like to be proactive and prevent the problem in the future. Those individual or the personnel that are aware of the circumstances and the consequences of harassment should play a major role by trying to bring the seriousness of harassment to the employee's management. They should do this by formulating and implementing appropriate policies and also by helping those who are affected to deal with the consequences of harassment.

On the side of Vinson, there is quite enough evidence that she has been sexually harassed and the correct measures should be taken by the court of law against Taylor. It is illegal for a person to make unwelcome sexual advances to his colleagues who are below him in the workplace. Vinson may have corporate because she feared losing her job. This is evident because

she filed a case after she moved out of the workplace. Justice should be done on her.

Reference

Dank M. B. & Refinetti R. (1998) *Sexual harassment in universities and colleges/ United States* , Transaction Publishers, USA

[www. capegateway. gov. za](http://www.capegateway.gov.za)

[www. equalrights. org.](http://www.equalrights.org)

[www. teknolaw. com](http://www.teknolaw.com)