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EDITORIAL

Rude remarks toward the principal: dismissal confirmed

Me Danilo Di Vincenzo, CIRC, Le Corre Lawyers

" *Violence in school against students is a no!* " That was the title of our last editorial. But violence in schools, whether directed at coworkers or employer representatives, is also a no! In fact, every employer has a duty to provide a work environment free from psychological harassment, and acts of violence are considered a form of harassment.

Any form of workplace violence, whether verbal or physical, should be met with strict disciplinary action, especially when the victim is a representative of the employer. In this regard, we present a recent decision by arbitrator Pierre St-Arnaud, who ruled on the grievance of a support staff employee contesting his dismissal following an act of violence against his school principal[1].

The facts can be summarized as follows. The complainant was hired by the school board in January 2017 as a temporary employee and later as a maintenance worker. In February 2023, he obtained the position of night janitor at an elementary school. He was required to complete a 60-working-day probationary period. A few days before the end of this probation, the complainant was called in by the principal to discuss his performance evaluation. When she informed him that his probationary period would be extended, the complainant became aggressive: he slammed the door violently while shouting and calling the principal a "*f*c*i*g c*n*".

The complainant was immediately suspended pending an investigation. He was interviewed twice following the incident and consistently denied having used such language. He shifted the blame onto others, essentially accusing the principal of lying. During the second meeting, he reiterated that he felt no remorse. The school board subsequently terminated his employment, a decision that was challenged through a grievance.

It is worth noting that the complainant had a history of problematic interactions, both with coworkers and with representatives of the employer. In November 2022, the school board issued him a notice for improvement due to frequent shouting and aggressive behavior toward other employees, who had filed complaints about his conduct. In February 2023, he was suspended for one day following another incident of inappropriate behavior and was warned that any further misconduct could result in termination.

After hearing the evidence, the arbitrator was convinced that the complainant had used the words "*f*c*i*g c*n*" at the principal. He noted that this is an extremely offensive insult with sexist and misogynistic overtones. As an English speaker, the complainant could not have been unaware that using such language constituted a direct attack on the principal's dignity as a woman. The fact that this insult was delivered aggressively in front of witnesses was considered an aggravating factor. According to the arbitrator, this act alone warranted dismissal, especially since the complainant showed no remorse.

The arbitrator rejected the union's argument that the employer should have followed the progressive discipline process before proceeding with dismissal. According to the arbitrator, the employer was permitted to make an exception to this principle given the seriousness of the misconduct and the fact that the complainant had been warned a few months prior to his dismissal that he needed to change his behavior and that any further incident could lead to termination. However, he reoffended with greater aggression, indicating a complete lack of understanding.

The arbitrator also emphasized that this incident constituted a form of violence, and that the parties, in their collective agreement, had specifically agreed that the workplace must be free from all forms of violence and that such behavior is considered unacceptable.

Thus, in disciplinary matters, while each case is unique, any act of violence must be met with serious consequences. The appropriate sanction depends on the specific circumstances of the case, with the severity of the act and the status of the victim being key determining factors. Violence against a member of management constitutes not only serious misconduct but also an attack on authority.

Finally, it is important to remember that an amnesty clause does not take away your right to dismiss an employee based on their disciplinary record. As of March 27, 2024, amnesty clauses included in collective agreements no longer apply in cases involving misconduct related to physical or psychological violence, including sexual violence[2].

1. *Commission scolaire English-Montréal* v. *Union des employées et employés de service, section locale 800*, 2025EXPT-986, SAE 9813, 2025-03-24, Pierre St-Arnaud
2. Section 97.1, *Act respecting labour standards*, RLRQ c. N-1.1

RECENT DECISIONS

1 The school service centre could not contest an equivalence granted by its own decision

The union contests the decision of the school service centre to refuse to place a temporary daycare service educator on the priority employment list, on the basis that she did not possess a secondary school diploma or an attestation of studies whose equivalence it recognizes. However, the school service centre, acting as an educational institution, had already determined that the employee had the knowledge corresponding to a Secondary V diploma and had recommended to the Ministère that her studies be sanctioned. According to the arbitrator, the roles of employer and educational institution must be distinguished. Under the *Education Act*, the school service centre, as the competent authority, had recognized the equivalence of the employee's studies. Thus, the school service centre could not, in its role as employer, contest an equivalence that it had itself granted as an authorized educational institution. The grievance was upheld.

Syndicat du soutien scolaire de la Riveraine (CSQ) v. *Centre de services scolaire de la Riveraine*
2025EXPT-719, SAE 9809, 2025 QCTA 67, Éric-Jan Zubrzycki

2 Between heat wave and ministerial exams: the school service centre could keep its establishments open

The union challenged the school service centre's decision to keep its establishments open despite a predicted heat wave of 40°C and above, arguing that it was in breach of its *Weather Policy* and the collective agreement. The arbitrator concluded that the school service centre had indeed infringed its policy and the collective agreement but had not committed an abuse of right. According to the arbitrator, the school service center had acted diligently, in a justified and reasonable manner given the particular circumstances. Non-compliance with a provision of a collective agreement does not necessarily imply an abuse of right. The decision to keep the schools open was not unreasonable, since the extreme heat wave was announced during the last week of the school term, when the ministerial exams were mandatory. The emergency situation and ministerial constraints justified the school service centre's decision.

Centre de services scolaire au Cœur-des-vallées v. *Syndicat du personnel professionnel de l'Outaouais*
SAE 9815,2025-04-03, Guy Roy

3 While he regrets his decision, his resignation is valid

The union reproaches the employer for refusing to revoke the resignation of a physical education teacher. The union argues that the employee was not in a condition to make a free and enlightened decision due to his health status. However, medical records from the time of the resignation indicate that the employee was in relatively good health, that his judgment was not impaired and that the professional difficulties he was experiencing did not constitute medical issues. Although the employee had experienced depressive episodes in previous years, nothing suggests that he was incapable of giving valid consent or of fully understanding the consequences of his actions. The remorse he expressed several weeks after his resignation is not enough to prove that he was unfit to make that decision. The employer did not act unreasonably, negligently, or in a discriminatory manner toward the employee. The grievance is dismissed.

Syndicat de Champlain (CSQ) v. *Centre de services scolaire Marie-Victorin*
2025EXPT-513, SAE 9802, 2025 QCTA 24, Robert L. Rivest

RECENT DECISIONS

4 Notice to attend a medical assessment: absentees are always wrong

While she was on disability, the school service center requested a janitor to attend a medical assessment by sending her a notice of convocation by email to both her personal and professional addresses. However, the janitor failed to show up for the assessment without giving notice and without reasonable cause, and the school service centre had to pay $1,395 for the costs of the assessment. The latter therefore filed an employer grievance claiming this amount from the employee. The arbitrator recalled that the collective agreement provided for the right of the school service center to have an employee examined by an expert of its choice in the event of disability. The employee had no choice but to undergo the examination, unless she had serious reasons to put forward, which had to be communicated as soon as possible to the school service center. She breached the collective agreement despite the union's persistence in trying to contact her. The employer was therefore entitled to claim reimbursement of the expert's fees. The grievance was upheld.

Syndicat canadien de la fonction publique, section locale 2057 v. *Centre de services scolaire des Affluents*
SAE 9811, 2025-03-17, André G. Lavoie

5 Some restrictions did not prevent her from performing her work

The employer contests the CNESST's refusal to impute to employers of all units, pursuant to section 327 AIAOD, the costs of medical aid paid as a result of an employment injury. The employer alleges that a special education technician's industrial accident did not render her unable to carry out her employment beyond the day of the alleged events. Despite a few restrictions imposed by her physician, such as avoiding physical restraints for three weeks, the worker was able to perform most of her usual work. She continued her regular work, simply by paying more attention, and received no income replacement indemnity. Moreover, in the regular school to which the worker was assigned, physical restraint was infrequent. According to the tribunal, the short-term restriction had no impact on the worker's ability to perform her duties. If necessary, she could obtain help without causing a work overload. The complaint was upheld.

Centre de services scolaire des Premières-Seigneuries
2025 QCTAT 930 (SST), Maude Côté

6 Significant personal difficulties unrelated to the alleged event

A teacher contests the CNESST's refusal to recognize her employment injury, namely acute stress and post-traumatic stress disorder. The worker intervened with a student who squeezed her wrist when she tried to confiscate his book. After this event, the student was withdrawn from school and the worker continued to work. When the worker learned that the student would be back for the end-of-year exams, she consulted a physician. According to the tribunal, despite the presence of an unforeseen and sudden event, proof of a causal relationship between this event and the diagnoses made had not been demonstrated. Prior to the event, the worker was undergoing psychotherapy for exhaustion, overwork and increased anxiety. She also alleged significant personal difficulties which, in the opinion of her psychiatrist, were at the heart of her distress. However, the weight of the contribution of these difficulties does not permit the probative conclusion that the diagnoses made were the result of the alleged event. The complaint is rejected.

Vaillant et *Centre de services scolaire Marguerite-Bourgeoys*
2025 QCTAT 440 (SST), Virginie Brisebois
Application for review or revocation filed