Ronald Carrière v. Copap inc.: A case of employee perceptions blown out of proportion

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In *Carrière v. Copap inc.*, 2023 QCTAT 562, the Tribunal administratif du travail ruled on a complaint of constructive dismissal combined with a complaint of psychological harassment. Both were found to be unfounded.

Summary of the facts

On November 14, 2018, Mr. Ronald Carrière, who was then the chief financial officer at Copap Inc. (Copap), filed one complaint of dismissal without just and sufficient cause, and one complaint of psychological harassment, with the Commission des normes, de l'équité, de la santé, et de la sécurité du travail (CNESST). The Tribunal heard evidence for a total of eleven days, spread over nearly two years.

In essence, Mr. Carrière alleged that a series of events, which he described as acts of harassment, led him to consider that Copap was trying to get rid of him. He submitted evidence of multiple incidents that he attempted to portray as vexatious and humiliating. Among other things, the plaintiff alleged that the shareholders used a curt tone of voice with him, made unjustified and unfair decisions, failed to support his efforts to manage problems in his department, and refused to allow him to take vacation time. The situation came to a head at a meeting in October 2018 with his superiors, the company's majority shareholders, who allegedly informed him of a significant change in his conditions of employment which according to Mr. Carrière constituted constructive dismissal.

Analysis

The administrative judge rejected both of Mr. Carrière's complaints. First, regarding the harassment complaint, she found that no vexatious conduct had taken place and that the employer's actions fell within its management rights.

In her ruling, the judge mentioned several times that the evidence did not support Mr. Carrière's perceptions. Instead, this was a situation where the company was facing various changes and the plaintiff refused to recognize and adapt to the new reality,

preferring to take on the role of victim and treat everything management did or said as malicious.

The fact that Mr. Carrière alleged countless instances of harassment seems to have worked against him. The judge made several comments about this, stating at one point that if the plaintiff's perceptions were to be accepted, it would never be possible for his superiors to express any dissatisfaction without having this interpreted as harassment. The judge remarked that the plaintiff's version of events included a large measure of exaggeration and was not corroborated by his own witnesses. Overall, she deemed the actions held against the employer to be relatively trivial and on the whole innocuous.

With respect to the complaint of constructive dismissal, it should be noted that the plaintiff was still employed when it was filed. He claimed that Copap had used various manoeuvres to compel him to give up his position, including the various allegations of psychological harassment. He left on a sick leave a few weeks later and was still on disability when the hearings took place.

The judge determined that the evidence did not lead to a conclusion that the employer sought the plaintiff's departure or had in any way manoeuvred to bring it about. Specifically, she found that Copap had at no time imposed unilateral changes in Mr. Carrière's conditions of employment, but that the parties were in the process of discussing how the plaintiff could best perform his duties. If changes are being contemplated but are still merely hypothetical, and the employer does not force the employee to accept its proposals, these cannot be seen as a unilateral decision by the company to let the employee go.

Takeaways

The ruling confirms that the plaintiff's perceptions are not, on their own, sufficient to conclude that the latter has been a victim of psychological harassment or constructive dismissal. It is essential that these perceptions be corroborated by the evidence, and the parties' conduct must be assessed from a global perspective according to the test of the reasonable person in the same situation.

This ruling further reminds us that the Tribunal's role is not to interfere with the way an employer manages its business or even its employees, but rather to determine whether management rights are exercised in a manner that is reasonable, proportionate, and neither improper nor discriminatory. The mere fact of an employee finding certain actions or words unpleasant is not sufficient to conclude that there has been psychological harassment.

With respect to the constructive dismissal complaint, this case is of interest in that the complaint was rejected more than four years after it was filed, while the plaintiff was still on disability. Notwithstanding the plaintiff's claims that the employment relationship was never discontinued, the judge made no comment as to whether an employment relationship existed when she issued her ruling.

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