
THE LOCH NESS COTTON COMPANY: SEXUAL HARASSMENT? YOU BE THE JUDGE!

The Task

You are the committee of workers and managers that has been assembled to consider and act on a complaint by Dana Tibbetts, who claims to have been sexually harassed by coworker and supervisor, Alex Lehmann.

You have met with each of the parties separately and now have a transcript of each one's statement. You have also talked with a couple of Alex's and Dana's coworkers and have gotten statements from them.

You have also done some research into what sexual harassment is all about and have learned that it is a form of sex discrimination that violates Title VII of the Civil Rights Act of 1964.

According to Title VII, "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when submission to or rejection of this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment."

Sexual harassment can occur in a variety of circumstances, including but not limited to the following:

- The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex.
- The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a coworker, or a non-employee.
- The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.
- Unlawful sexual harassment may occur without economic injury to or discharge of the victim.
- The harasser's conduct must be "unwelcome."

Based on what you now know,

1. Take a position on whether you believe there is or is not sexual harassment; or whether the facts given are inconclusive, and why?
2. Whether or not you believe sexual harassment has taken place, it is clear the situation must be defused. Develop a proposal for handling the situation.

Back up your conclusions and recommendations

Background

The Loch Ness Cotton Company, manufacturers and importers of cotton dry goods, was founded in 1897 by Scottish immigrant Ian Mactavish. In the early days of the company, Mactavish employed a handful of his countrymen as supervisors for the lines of young immigrant women who worked as knitting machine operators and stitchers in his plant on the Lower East Side of New York. Despite the founding of the International Ladies Garment Workers' Union in New York in 1900, Loch Ness was never organized, and the women at Loch Ness continued to work long hours in poorly lighted and dismal surroundings for more than four decades into the twentieth century.

In 1942, Mactavish sold his interests in Loch Ness to a large conglomerate. The new owners moved the manufacturing facilities to a modern plant in North Carolina where manufacturing outputs ebbed and flowed according to demand. This resulted in multiple lay-off periods interspersed with significant increases in hiring.

By the late 1970s, the parent company had increasingly turned its interests to less expensive imports from such countries as Egypt and Bangladesh, and more than 60 percent of the workforce was cut over a ten year period. In 1987, faced with the inevitable closing of the plant, the 262 remaining employees at Loch Ness took control of the company in an unusual leveraged buy-out by the employees. Within eighteen months of the LBO, Loch Ness had become profitable, and morale was at a new high.

As part of the arrangements with their local lenders, the employees agreed to leave the existing management structure in place for a period of six years after the buy-out. However, while there were few women in management positions and few men on the line, there was an ongoing attempt to build a "we're all in this together" atmosphere: a profit-sharing plan was put into place, quality circles were implemented and, in an effort to give employees more job satisfaction and a greater sense of ownership and responsibility, decision making was systematically pushed down to those who were doing the day-to-day work. In addition, a performance appraisal and feedback system was developed and instituted by a committee of managers and workers, and it was agreed that this system would serve as the basis for awarding bonuses and promotions.

Loch Ness President and CEO Henry MacDougall prided himself on the enlightened management that he, freed from the constraints previously imposed by the parent company, had rushed to implement. He credited much of the company's turnaround to this progressive management approach and was pleased at the spirit of cooperation that now pervaded Loch Ness. Thus, he was surprised and distressed to learn that one of his front office employees had complained to the company's human resources director about being sexually harassed on the job by a veteran employee and supervisor, Alex Lehmann. Worse yet, MacDougall was told, the employee, Dana Tibbetts, was threatening to file a law suit against the company unless something was done about Lehmann's behavior. Tibbetts was also making it clear that little short of firing was likely to be satisfactory.

Loch Ness had never had a sexual harassment claim against it before. MacDougall, in keeping to his commitment to employee empowerment, decided to appoint a committee of workers and managers to consider the situation and propose resolutions.

Dana Tibbett's Statement

"This is the beginning of my fifth year at Loch Ness. I spent the first almost four and a half years in the stock room, and I worked hard to finally land a front-office job. That was a big step for me because I only have a high school diploma, and most of the others went to college. Unfortunately, my supervisor, Alex Lehmann, has made my new job unbearable and also made it impossible for me to do good work. It's not fair; I worked hard for this job, and I want to keep it."

"The sexual harassment didn't just happen once. It happens over and over, and Alex's attitude towards me seems to have made the others in the office think it's okay for them to bug me as well. Probably the worst part of it is that everyone in the office seems to think it's okay to make comments about my looks and my clothes, and I think that's because Alex thinks it's okay. Sometimes they whistle or say things that are really crude. They've even left porno pictures in my desk drawer. I told Alex that it upsets me, but Alex hasn't done or said anything to make them stop, and besides, Alex is the worst. Alex has really been coming on to me, staring at me and always making comments about the way I look."

"I dress really well most of the time, not like the rest of the people in the office who usually look like they're going to a funeral; and I work out a lot, so I'm in good shape. I'm also one of the few single people in the office, so maybe Alex and the others think that what they're doing is okay. I think Alex is pretty angry that I'm not interested, and that got taken out on me on the quarterly performance appraisals. I read the comments, and they just weren't fair. Alex wrote that I always come late for work and that I make a lot of mistakes."

"I didn't start coming late until a couple of months ago. I haven't wanted to tell anyone why because I'm afraid it will only make things worse. When I first started in the front office, I was always on time, if not early. But Alex and the others always start making their comments to me first thing in the morning when I walk in, so I started coming in a little late to try to avoid them. I even come in a side door so they won't see me, but sometimes I just have too much work to do, and besides, when I come in late, no matter what I tell Alex about why, Alex just yells."

"For a long time, I was afraid to complain about what Alex does to me. I don't want to get fired. But what's going on has made me so nervous that I'm making a lot of mistakes, and Alex is already using that against me. Besides, I'm having trouble sleeping at night because I'm so worried about my job, and I even went back to smoking, something I told myself I would never do again after I stopped three years ago."

"While I don't want to get fired, if this keeps up I might as well quit. But it isn't fair, because I'm not to blame. Alex is. When I heard that Alex is up for promotion to office manager, I really got upset, and I'll bet some of the others in the office aren't too thrilled either; but I don't know. When I told my friends in the stockroom what was happening, they told me it was sexual harassment and that I should complain and probably sue. You can ask any of them and they'll tell you that I work hard."

"I'm not sure what I want to do. Even though my stockroom friends told me I can't get fired for complaining, this is really hard. Anyway, Alex shouldn't be working here. If anyone gets fired, it should be Alex, and I finally decided that I have nothing to lose by doing something about what has been going on."

Alex Lehmann's Statement

"In no way have I been anything but supportive of Dana Tibbetts, and I'm really angry about the charges that have been brought against me. Since I first came to work for Loch Ness, almost 18 years ago, I have proven myself to be reliable, honest, and dependable. I've always gotten along with my coworkers, I've played on the company softball team, and I've co-chaired the annual Christmas party for the past six years."

"Since becoming a supervisor, I've gone out of my way to help my employees, including Dana Tibbetts. Dana and I both came from the same place, right out of high school and into the Loch Ness stockroom. That's pretty much a minimum wage position, but I worked hard, and I also went to school nights to get my associate's degree and then my bachelor's in psychology. That's how I got to be a supervisor in the stockroom, and that's how I got moved up to the position I'm in now. Right now I'm in line for the office manager's job that should be opening up sometime in the next six months when Freida Allenby retires."

"One of the things that really concerns me is that these charges of sexual harassment might get in the way of my promotion, and I can't help but wonder if Dana doesn't know that and is trying to get back at me for what I wrote at the time of the last quarterly performance appraisal reports. For months, Dana has been showing up late for work at least two days out of every five. There always seems to be a different excuse—"I missed the bus," "my alarm clock didn't go off," "the phone rang just as I was leaving"—and nothing I have said seems to have gotten the point across that showing up on time is important. I've tried to gently hint, and I've tried yelling. Now I don't even get an excuse; all I get is a sarcastic crack of some sort or a dirty look."

"Dana has also been responsible for an awful lot of the mistakes made in our office. If something is missing, there's a good chance that Dana was supposed to have filed it. If numbers don't add up, there's a good chance Dana was supposed to have handled the math. I couldn't just let all that go by, so I wrote the problems up as things to be worked on. And, I've made a real effort to help Dana improve."

"I know that at least part of the harassment complaint is that I've frequently commented on Dana's clothing, and this I freely admit. I'll also admit that Dana is really good looking, and I'm not surprised by what some of my people tell me about Dana's social life. But this is business. When you work in the stockroom, it's okay to dress casually, but in the front office, with buyers and other businesspeople going in and out, you have to dress more professionally."

"I've tried to help Dana understand things like how to dress in the front office by making a point of saying something complimentary when Dana dresses appropriately. When Dana wears clothes that are too tight or too flashy, I don't say anything. I do this because I learned in my college psychology classes that if you reinforce appropriate behavior, it will be repeated and that inappropriate behavior will go away after a while if it is not reinforced. In Dana's case, it doesn't seem to be working, and sometimes it gets really bad. About a week ago, Dana's pants were so tight that you could see everything, and some of the other people in the office whistled and made comments. Frankly, I didn't blame them, but I was careful not to say anything."

“At no time have I harassed Dana Tibbetts, sexually or otherwise. I’m convinced that Dana’s complaint is not about sexual harassment but rather because Dana is angry about my comments on the performance appraisal and doesn’t understand that I’m trying to help. While I haven’t talked about the accusations against me with any of the others who work for me in the front office, I am sure that everyone of them will tell you that I haven’t done what I’ve been accused of doing.”

Chris Alton’s Statement

“Dana and I started out in the stockroom together and got to be really good friends. When anything needed to be done, we all knew we could count on Dana to do it and do it right. There were times when Dana came in on weekends, even without being asked, because something needed to get finished by a deadline. That’s why we were all really happy when the promotion to the front office came through. Dana wanted it and worked hard to get it.”

“I’m pretty upset by what Dana is going through now. Frankly, I think the people in the front office are just a bunch of snobs and that they treat Dana the way they do as kind of a put-down. I also think that Alex Lehmann is mad because Dana isn’t interested in, you know, a social relationship, if you know what I mean.”

Lee Moriarity’s Statement

“I’ve been at Loch Ness for a long time. I’ve worked at the machines, in shipping, in purchasing, and I’ve been in the front office for three years longer than Alex Lehmann. I can tell you that Alex is the best supervisor I’ve ever had. Alex has a sense of humor and knows when to let us fool around to break the tension, but Alex also knows how to get us to work hard. If it weren’t for Alex and all the help Alex has given me, I wouldn’t be up for the supervisor’s position when Alex’s promotion to manager comes through. When there’s a problem, Alex is always supportive and is really interested in pushing us ahead and making us look good. Alex puts time into everyone, even that loser, Dana Tibbetts.”