

# Whistleblowing RBC employee wins reinstatement

*Reprisal for employee's reservations about client loan started campaign featuring negative appraisals and denial of short-term disability benefits*

| BY BRAM LECKER |

**AN ONTARIO** arbitrator has ruled that an employee who was dismissed for allegedly abandoning his employment while on an unauthorized medical leave was entitled to reinstatement, back pay and costs on a full indemnity basis.

Devinder Verma was a financial planner at the Royal Bank of Canada (RBC). In November 2007, Verma became concerned about a client's lack of documentation in support of a mortgage loan. His branch manager, on the other hand, was eager to facilitate the loan. When Verma expressed his reservations about the client's eligibility for the loan, the branch manager engaged in a series of reprisals, including accessing Verma's computer to complete the mortgage application, as well as criticizing him to a supervisor.

The supervisor accepted the criticisms uncritically. In particular, he became concerned that Verma's accent created a communication barrier with clients. The supervisor encouraged Verma to take courses to improve his English language speaking skills and suggested that Verma would not be in his position long if he failed to do so.

Verma began taking the required courses and requested that he be transferred to Mississauga or Brampton, where his other language skills could be used. Ostensibly willing to help, the supervisor asked Verma for a resumé for a senior account manager position. However, Verma believed this position was of lower status and salary. He consequently became distrustful of the efforts to help him. RBC didn't provide any evidence to suggest Verma was mistaken in his belief.

On April 14, 2008, Verma submitted a five-page letter to RBC's Human Resources Advisory Group expressing concerns that he was experiencing reprisals for whistleblowing, was a victim of racial discrimination and his

## WRONGFUL DISMISSAL

book of business was being filtered for best potential clients. Shortly thereafter, Verma went on stress leave for which he received short term disability benefits.

### Supervisor challenged worker immediately upon return to work

Verma returned to work in early May 2008. The supervisor immediately challenged him to improve his sales figures and increase his clientele. The supervisor did not, however, communicate his expectations in a clear and convincing manner.

Verma failed to meet the performance expectations and received a formal verbal warning on Feb. 17, 2009. The supervisor clearly indicated that Verma's job was in jeopardy if his performance did not improve. Following the meeting, Verma experienced difficulty sleeping, stress, anxiety and depression. He went on another stress leave two days after the verbal warning.

On March 9, Verma returned from the leave. Three days later, the supervisor gave him a negative performance appraisal and made comments that were abusive and unprofessional, which resulted in Verma experiencing further symptoms of anxiety and depression and caused him to be unable to work. On this occasion, Verma's request for short-term disability benefits was declined by Manulife — the benefits provider — and RBC. As a result, Verma abruptly returned to work on May 15 in an effort to protect

his employment. However, Verma was unable to remain at work and quickly returned to sick leave.

On May 26, 2009, the supervisor sent a letter to Verma advising him that he was on unauthorized leave. The letter stated that Verma's employment was in jeopardy if he failed to return to work. On June 22, 2009, MacDonald sent a letter to Verma advising that he had been terminated for cause and he was not eligible to be re-hired by RBC.

In the circumstances, the arbitrator found that RBC's conduct was precipitating the symptoms which impaired Verma's ability to succeed at work. The dismissal was unjust and RBC was ordered to reinstate Verma with compensation for lost pay and benefits since his dismissal. While the bond of trust between Verma and his supervisors was irreparably ruptured, RBC had the ability to remove Verma from the toxic work environment by placing him under new supervision at another branch, said the arbitrator.

Significantly, RBC had conferred on Manulife the responsibility to determine whether or not an employee should receive short term disability benefits. The arbitrator held that Manulife's decision to deny Verma's claim for benefits caused Verma to suffer additional stress and anxiety and RBC was responsible for Manulife's recommendations and their consequences. ■

### For more information see:

■ *Verma v. Royal Bank of Canada* (Can. Lab. Code adj.).

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