

Human Resources

By Stephanie Ramsey



HR Reality Check

Yep, the Stories are True!



HR CASE STUDY #10

SCENARIO: Jordan Watson, owner of Watson Family Funeral Services, recently found himself dealing with an employee situation he simply didn't know how to address. His firm had been serving his East Coast community for multiple generations and had a stellar reputation. Indeed, he often thought of his staff as his extended family rather than employees. The business served just under 300 families per year, and the team frequently received accolades from the families it served.

About six months ago, the longtime office manager, Shelia, retired. The assistant office manager, Karen, was promoted to her role and a new assistant office manager, Barbara, was hired. Barbara was new to the funeral industry but had a few

years of experience working in a busy doctor's office. All indications were that she would be a good fit for the position.

After she started, all the employees appeared to like her except for Rick, the senior funeral director. For reasons

beyond anyone's understanding, it appeared that Rick took an instant dislike to Barbara. It started with Rick cutting Barbara off when she was speaking during staff meetings. But then it began to escalate.

Karen was more than satisfied with

Barbara's work performance, but Rick found reason to complain about issues that Barbara did not have direct responsibility in performing. Then Karen overheard Rick telling Barbara that she smelled like "cat pee." Barbara was clearly embarrassed and frustrated. Karen immediately went to Jordan to report the exchange that she witnessed, stressing that Barbara did not have an odor as Rick claimed.

Karen was concerned that Barbara was going to seek other employment, as she didn't feel comfortable at the office around Rick. Jordan immediately elected to give Rick a formal disciplinary action. He felt Rick's actions were counterproductive to the team-oriented atmosphere and his public comment was inappropriate.

Rick disagreed with Jordan's written disciplinary action and quickly excused himself from their meeting as soon as Jordan finished presenting the disciplinary form. Jordan was very distraught by Rick's behavior. Rick was his best funeral director, and he didn't want to lose him. Barbara, however, was proving herself to be a quality employee, and there was no evidence that she had provoked Rick in any way. He was uncertain how to proceed and was concerned about the anger he had witnessed in Rick during their meeting.

What are the rules?

Title VII of the Civil Rights Act of 1964 might apply in this situation. This act prohibits harassment and discrimination in the workplace. The Equal Employment Opportunity Commission investigates violations of this federal rule.

So, is the situation described in our scenario discrimination or harassment? Many people use the terms interchangeably, but they do not have the same meaning. Discrimination occurs when an employer or manager treats members of specific protected classes unfairly

(examples include gender, race, and religion).

Harassment, on the other hand, is focused on a single individual and can include a variety of different acts. It also appears that this scenario is workplace bullying. However, there is no federal law that specifically addresses workplace bullying unless it rises to the level where it can be identified as harassment. Harassment is deemed to have occurred when a reasonable person would consider the work environment intimidating, hostile, or abusive.

While no federal regulation exists currently, please be aware that several states have enacted legislation to address workplace bullying – and more states are considering adopting such legislation. Some examples of workplace bullying that may rise to the level of harassment are:

- Persistent or egregious use of abusive, insulting, or offensive language.
- Aggressive yelling or shouting.
- Making repeated negative comments about a person's appearance, lifestyle, family or culture.
- Regularly inappropriately teasing or making someone the brunt of pranks or practical jokes.
- Circulating inappropriate or embarrassing photos or videos via email or social media.
- Unnecessarily interrupting or disrupting someone's work; inappropriately interfering with a person's personal property or work equipment.
- Repeatedly discounting a person's statements in group meetings; unfavorably comparing one person to others.
- Blaming a person for problems they did not cause.
- Taking credit for another's contributions.
- Spreading misinformation or malicious rumors.
- Purposefully inappropriately excluding, isolating, or marginalizing a person from normal work activities.

Did the employer make any mistakes?

The good news is that Jordan acted rather than ignored Rick's behavior. A review of the Watson Family Funeral Services employee documents revealed that it has an employee handbook. However, while it clearly stated that sexual harassment was prohibited, it was silent on other forms of harassment. This was a weakness that created a vulnerability for Jordan. Because Jordan did not have the information readily available, he was not able to draw Rick's attention to the fact that his actions may be violating federal law, which may have had more impact on his behavior. Also, Jordan did not have the opportunity to explore why Rick had a problem with Barbara and determine if there was any way to address his concerns about her.

Resolution of the issue: Jordan needs to have another conversation with Rick. At that time, he needs to gather more information from Rick about his attitude toward Barbara while at the same time bringing to his attention the fact that his behavior may be putting the business at risk by creating a hostile work environment.

As a long-term employee, his commitment to the business may override his dislike of Barbara – and he can interact with her on a professional level. Perhaps Jordan will learn the underlying problem that Rick has with Barbara, allowing for a resolution. Additionally, Jordan needs to discuss with Rick his reintegration into the staff given his disciplinary action. Rick needs to understand that he is a valued member of the team and that he is expected to continue to be so assuming he stops his inappropriate behavior. His behavior has an impact on every other employee. He needs to be a leader for everyone else.

Further, Jordan and Karen need

to be very proactive in monitoring Rick and Barbara's interaction for the immediate future. If Jordan or Karen perceives that their communication is not at an acceptable professional level, then they need to intercede. Barbara must be assured that she has resources to address her concerns should Rick's behavior continue so Karen should encourage her to bring any issues directly to her.

If Rick's behavior continues, then progressive disciplinary action must be taken up to and including termination. His behavior will ultimately impact the other employees. In fact, others may take his side and begin to

treat Barbara the same way. Another area of concern is whether Rick is making any inappropriate statements about Barbara on social media forums. Having employee issues such as this aired in a public forum is not good for business and may continue to create a hostile work environment for Barbara if word gets back to her that Rick made negative statements about her.



Preventive measures: Consider including not only sexual harassment and sexual discrimination

policies in your employee handbooks but also have a general anti-harassment policy that can cover a much broader spectrum of harassment, including workplace bullying. Also, a well-crafted social media policy included in your employee handbook can provide employers the foundation needed to enforce harassment and discrimination policies for social media posts that may be impactful to the business. Please contact me at stephanie@theforesightcompanies.com if you'd like us to provide these documents for your employee handbook. •

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