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Legalities and realities of mat leave

By SUSAN PINKER

Dear Susan,

I had been working at an IT company for the past 10 months, when I gave verbal notice of maternity leave to my manager. Since then, my project's budget was cut and I, along with other employees, have been put "on the bench," meaning we were paid but had no work.

The company is supposed to be looking for another project for me. Every one else has had at least one interview and some have been placed on other projects. But the company seems to be ignoring me. Can I be fired? Should I immediately take maternity leave to avoid getting fired?

-- Growing Pains

Dear Growing,

I thought this question would be a cinch. Twenty-four years after the Canadian Charter of Rights and Freedoms became law, I thought it was obvious that you can't be fired for being pregnant. That would constitute sex-based discrimination, as males can't get pregnant, with the exception of seahorses -- and Arnold Schwarzenegger, now the governor of California, exhaling the words "I want to have your baby" in the movie *Junior* is a not-to-be-missed Hollywood moment.

But after this silly movie, after the Charter and well after the Supreme Court of Canada ruled in 1989 that pregnancy discrimination was a form of sex discrimination, the legalities and realities are still not that easy to grasp.

Although you cannot be fired because you're pregnant, you can lose your job before certain employment protections kick in. It would then be up to you to prove that you were sacked because of your reproductive status and not simply because the work dried up -- when anyone could be let go.

How did it happen that there is a disconnect between the principle and the facts on the ground? There are no national standards. The nuts and bolts of maternity leave vary according to the province you live in and the kind of work you do, according to Sue Genge, acting director of the women's and human rights department of the Canadian Labour Congress.

If you work in a federally regulated industry, like banking, transportation or telecommunications (information technology may fall in the latter category), federal rules apply. Otherwise provincial employment laws prevail.

And the amount of time you have to have worked to earn a maternity leave (and the guarantee of a job to return to), varies from province to province, ranging from having worked at least one month in Quebec to one year in Alberta. And if you are part of a union, that adds another layer of complexity, Ms. Genge says.

The bottom line: The principle that women should not be penalized for having babies is a basic human right in Canada, but how the principle is applied across the country is quite Byzantine.

So before you do anything definitive or make your feelings of neglect well-known, investigate your rights as spelled out by your province's labour standards act.

If you find that 10 months of work qualifies you for a maternity leave where you live, arrange for it immediately to avoid being off-sided. That doesn't mean you have to take it right away; it just means you're protected.

And work up the nerve to make it known that you are available and interested in working, not just in knitting booties. Tell your supervisor you dislike being idle are anxious to find out what project he or she has in mind for you next.

Dear Susan,

I am a woman working in a university research unit on a break between my masters and PhD. The job has been a complete nightmare. The boss is a bully but, as a vice-president at the university, extremely powerful. She berates employees, publishes our work without acknowledging us or giving us authorship, and takes shortcuts in her research. In the time I've been here, three people have been off on stress leave due to work. To save my mental health, I'm leaving for a position at a different university with my former mentor -- hurrah! However, I feel like a coward by leaving and not saying anything to anyone. Any advice?

-- The Escapee

Dear Escapee,

Your fear is justified. Whistle-blowing is not for mere mortals.

In the post-Enron Corp., post-sponsorship scandal era, it's fashionable to champion lofty ethical standards, with governments and corporations rushing to install internal watchdogs to prevent corruption or any whiff of conflict of interest.

An example is the federal government's just introduced Accountability Act, which offers cash rewards and job protection to bureaucrats who spill the beans. But it's not law yet and it remains to be seen whether betrayed colleagues will kill the messenger via blackballing or other means of torture specifically designed for those who break rank.

Without iron-clad protections for whistle-blowers on the ground, vigilante justice is still meted out. And nowhere is exposing bad behaviour riskier than in the university setting, where research labs are run as medieval fiefs with little oversight from the funding agencies and the parent institutions that might prevent the abuses you describe.

In that environment, there is no watchdog. As a result, it functions just like a traditional society, where people vote with their feet when conditions in a given group are unwelcome, says Kevin Kniffin, an anthropologist at the University of Wisconsin at Madison. As the costs of leaving can be prohibitive, having a viable alternative makes you one of the lucky ones, he said.

Indeed, the research lab as a closed society where unchecked professional jealousy, sabotage and power-mongering run amok is a theme exploited to great effect in a new novel by Allegra Goodman. Entitled *Intuition*, the book explores the machinations of a female researcher who goes after a former lover and fellow scientist. Finding his research results dubious, she blows the whistle, and both whistle-blower and target pay a steep price.

This may be fiction but it is also a morality tale with parallels to your predicament.

You could band together with the three employees on leave to make a formal complaint against this supervisor. But you would have to be prepared to have your credibility impugned. Because the stakes are so high and interpersonal issues are often ignored, academic science provides the perfect modern backdrop for themes of hubris and betrayal -- played out in a context where there are very few protections for the low man.

Why make yourself a target? Revealing your supervisor's aggression may be the right thing to do in theory. But until ethical watchdogs with teeth exist in practice, follow your own intuition and find safer ground.

Susan Pinker is a psychologist and writer.

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