

Distinguishing Mental Injury, Mental Distress and Mental Illness

In legal terms, *mental injury* (or *mental suffering*) is harm to a person(s) for which some other person(s) is held responsible in whole or in part. It can take the form of either *mental distress* or *mental illness*. Mental injury results from negligent, reckless or intentional acts or omissions. When such conduct occurs within the workplace, employers may be subject to some degree of legal liability (either directly or by association) if the level of resulting harm is significant and a cause-effect relationship between the employer's conduct and the harm is established.

Mental distress, as reported by employees, includes severe demoralization, disengagement and alienation. It can also include psychological distress, whether or not it meets the criteria of a clinically diagnosable disorder.

“Clinically diagnosable” refers to clinical conditions defined under the current version of the Diagnostic and Statistical Manual (DSM-IV-TR; American Psychiatric Association) as mental diseases or states of a debilitating nature. These include common disorders such as clinical depression and anxiety or combinations of these conditions, as well as less common conditions such as bipolar disorder and schizophrenia. Only qualified professionals (physicians and psychologists) are entitled to make such diagnoses.

Mental distress is not necessarily the same as mental illness. For example, a person may suffer mental distress as a consequence of harassment, but may not be clinically diagnosable as mentally ill.

Employees do not always, or even often, need to prove they have a clinically diagnosable mental illness in order to win a legal claim for mental injury or suffering at work. As current case law dictates, psychologically unhealthy conditions of employment such as excessive work demands can lead to successful legal action by employees if they can establish that these demands led to mental injury or suffering of a foreseeable nature. In Canadian courts, mental injury or suffering in the workplace is simply harm to mental health that significantly affects the ability of employees to function at work and and/or at home.