

Michelle Jones has been a firefighter with the City's fire department since 2013. Less than 10% of fire department employees are female. The bargaining unit employees are firefighters, captains, and platoon chiefs. Captains and platoon chiefs are not management, but hold a hierarchical role with respect to emergency response. The Fire Chief and the Deputy Chief are management positions outside of the bargaining unit. The culture of the workplace is one where there is a lot of joking and friendly teasing amongst the firefighters.

Michelle was assigned to Station #3 from 2013-2016. In early 2016, she complained to the Fire Chief, raising concerns about comments by and behaviours of other male firefighters. The City looked into her concerns, and she was transferred to Station #5 in August 2016. There was no official finding that Michelle had been subjected to inappropriate behaviour at that time. No grievance was filed.

At the new station, she was placed on a shift where she was the only female firefighter. From August 2016 to August 2018, there were a number of comments by and behaviours of male firefighters and the Deputy Chief which Michelle felt were inappropriate. Examples include comments about how other women (including employees) looked and jokes about sexual activity or with sexual innuendo. Very little of it was directed at Michelle specifically.

Brian, a Captain with 10 years seniority, was on Michelle's shift. Although not regularly assigned to his truck, she was assigned to work there on occasion when someone was absent. When Michelle joined the station, Brian was fairly friendly, as was Michelle. After some time, however, Michelle noticed that his behaviour was troubling. In particular, she noted the following:

1. On one occasion, in early 2017 when she saw Brian after she came out of the washroom, he said to her, with a smirk "That took awhile; you haven't been entertaining yourself in there, have you?". He said this in front of two other firefighters who both smiled, one of whom said "Brian, you're too much". After that, if Brian saw her coming out of the washroom, he would look at his watch, and say "Entertaining?...Nice..", with a smile. Michelle would shake her head and roll her eyes. He did this at least five times, and once in the presence of the Deputy Chief.
2. In and around early 2017 Brian began sneaking up on her. He would sneak up behind her, and then yell loudly in her ear. She would be startled and jump. He did this both in front of others and when they were alone. He, and others, would laugh at her reaction, when she said "cut that out". He must have done this more than a dozen times. Sometimes when he did this he brushed up against her backside, and briefly placed his hands on her hips.
3. In November 2017, a group of firefighters went out for drinks. Michelle was driving and did not drink. Later in the evening, Brian and two other firefighters asked Michelle to drop them off at a strip bar. She agreed. The last to exit the vehicle and sitting beside Michelle in her car, Brian leaned and whispered into her ear, "if you like, I could stay here and, uh, let you entertain me". He reached over and put his hand on her upper thigh. Michelle said "I'll pass." Brian then said "This is your chance". Michelle said "Brian, I think its time for you to get out of the car". Brian left.

4. After that last incident, Michelle noticed that Brian did not speak to her as much anymore. She also noticed that when duties were being informally distributed, if Brian was involved, he often found a way to exclude Michelle. Sometimes he would suggest they had enough people; other times he would say it may be better if she did something else.

However, he continued sneaking up behind her and yelling in her ear. He would laugh when she was startled, and make some comment like “Jones, you gotta always be ready; you never know when I’m going to be there”. She did not see him do this to anyone else. Brian also did this three times when she was resting in a cot in the sleeping quarters, sneaking up, yelling and shaking her vigorously. It became so that she could not rest, always on edge listening for the slightest sound. She began to be constantly nervous and agitated. Around early March 2018, she approached Deputy Chief Wilson about the sleeping arrangements, and said she found “the guys, particularly Brian, tend to roughhouse a fair bit” and that she was not able to have any rest. She asked if she could be provided a different sleeping location. The Deputy Chief said he would look into it, but then never responded. In early July 2018, Michelle followed up with the Deputy Chief. He told her there was no protocol for individual sleeping arrangements. He also told her that she should manage the fact the “guys are jokesters”.

In mid-September 2018, Michelle had a conversation with a female firefighter from a different station, who confided in her about another male firefighter who was constantly making comments about her body, “creeping [her] out”. Michelle decided she had to do something, and filed a grievance on September 30, 2018. She alleged sexual harassment by Brian and the department as a whole. She also went off work at the same time, providing medical of anxiety/depression which she says was caused by the harassment. She seeks to rely upon all the events/comments referenced above dating back to 2013. There are no specific allegations past August 2018. The collective agreement time limit for filing a grievance is fourteen days.

Upon receipt of the grievance, the Employer conducted an investigation. With respect to the allegations of comments by other firefighters and the Deputy Chief, the Employer stated they were unable to conclude they happened. Many of the allegations were about comments with limited details [e.g. on one occasion in the staff room in Fall 2017, the Deputy Chief said that his cooking showed that “men are superior, even in the kitchen”; once returning from a fire call, Chris said about a female firefighter that she was “a real bitch”, etc]. The other witnesses either said they could not recall that happening, or said that it sounded like something that might have been said as a joke.

As for Brian, the Employer discharged him. Brian grieved, saying that Michelle, shortly after her arrival at the station, had invited him to go out after work and to go sailing with her when they discovered that common interest (though neither had happened due to scheduling). He says that he thought she was interested in him, but then when she said no in the car, he respected it. He says the startling her was just a joke, and that firefighters touch each other to wake them sometimes when duty calls. Also, one firefighter indicated that Brian made the “entertaining joke” to him a couple times after he exited the washroom as well. Brian has no other discipline on his record.