

Answering illegal questions during an interview

I'm a manager at a large company who recently interviewed for a job at a smaller company. The interview seemed to go well until I got this question: 'What does your husband do?' I hesitated and then went ahead and told the interviewer truthfully what he does for a living. Maybe I shouldn't have done that but I was too surprised to think of anything else to say.

"I don't think it's the interviewer's business what my husband does. When I left, I realized that what he was trying to do was determine our household income and possibly try to adjust the salary level of the position accordingly.

"What do you think? Is this a legal question? And what's the best response? I want to be paid a fair salary based on my skills and the responsibility of the position, not on the basis of what my spouse makes."

No, it's not a fair question and not a legal one, either. I think that question would have stopped many job-seekers in their tracks. How on earth do you answer it?

The question, which seems to focus on occupation, does go to marital status, which is a protected category under New York State law.

"It is improper for an employer to ask the occupation of a husband," says Sharon Stiller, partner with the law firm Boylan, Brown, Code, Vigdor & Wilson LLP in Rochester. "In fact, since sexual orientation has become a protected category, it is equally improper to ask about a boyfriend or girlfriend."

It's none of the interviewer's business



MANAGERS AT WORK

Kathleen Driscoll

whether you're married, single or where your husband works or if he works at all. And your analysis afterwards that the employer was probably looking to reduce the salary for the position based on household income was probably accurate, as well.

"The employer may be looking to determine what amount of money she would 'settle' for," says Gary Baker, partner at the Rochester recruiting firm Cochran, Cochran & Yale. "Trust me when I say it, there are companies out there that will penny, nickel and dime people to death."

Although you were uncomfortable with the question and your answer to it, you should be glad that you found out what this employer is like before accepting a job there.

"It's good to know this now," says Nelson Thomas, partner with the Rochester law firm Dolin, Thomas & Solomon LLP.

"I see people who have faced discrimination on the job. If only they'd known beforehand that this was the type of person they were working for, they would have been better off."

The interview question is an example of the kind of discrimination seen today,

Thomas says.

"We tend to see very subtle forms of discrimination like this—some even less obvious than this—where people's attitudes shine through in terms of how they treat people."

This question is somewhat similar to what can occur in a layoff situation, he says, when a company decides to lay off a single person rather than a married person, because he or she doesn't have a family to support.

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Besides discriminating against the candidate because of her marital status, the employer asking this question is harming himself and his company by trying to keep the salaries down. Even if this candidate accepts the job, she is not likely to stay if she's paid below the market, Thomas says.

The tough part, however, is what to say when you're confronted with one of these questions. You're taken by surprise. Stiller suggests turning the conversation away from the issue by saying, "What does your spouse do?" or by saying, "We can discuss that once I'm hired."

Another option, Thomas notes, is to answer the question in geographic terms without specifics, such as "He works

downtown or he works in the suburbs."

The employer probably won't like those responses. But it's tough to give the best answer on the spot. After the interview, many people will wonder why you didn't point out the problem and tell the interviewer to stop, Thomas says.

"It's very personal and very high stress. If you say, 'You're violating the law, please stop,' that's not a good answer to give."

When you're confronted with an inappropriate question, experts suggest keeping your tone as professional and positive as you can. You want to draw the conversation toward your skills and experience without refusing to answer particular questions. So you could say, "Can you tell me how the issue relates to my qualifications?" Or, as Baker suggests, you can make it a statement instead of a question: "I am not certain what my husband (spouse) does has any relevance to my candidacy for this opportunity."

As we noted before, this type of emotion will tip you off to the type of employer you're dealing with.

"If these types of questions are asked in an interview setting and if the candidate is not comfortable with it, they probably will not feel comfortable working there either," Baker says.

Managers at Work is a bimonthly column exploring the issues and challenges facing managers. Contact Kathleen Driscoll with questions or comments by phone at (585)249-9295 or by e-mail at kadriscoll@aol.com.