

ONA WINS



SUMMARY OF ANOTHER SUCCESS AS YOUR UNION STRIVES TO IMPROVE YOUR WORKING CONDITIONS

Award addresses arguments used by insurance companies to deny disability benefits

Region 4 Hospital

ONA has won a precedent-setting victory for a member who was denied long-term disability benefits. In this case, the member was denied LTD benefits despite clear medical indicating that she was unable to work. She had been diagnosed with multiple medical conditions, which, when considered together, rendered her totally disabled.

The employer made many different arguments as to why the grievor was not entitled to LTD benefits. Employer counsel argued there was no objective medical evidence to support a finding of disability and that any supportive medical relied primarily on the grievor's self-reporting of symptoms.

The employer also argued that the grievor's medical care was insufficient, relying upon the opinion of the insurance company's consultant that the prescribed medications were inappropriate. Because the grievor was taking the prescribed medications, the employer also argued that the member had a "willfully self-inflicted" injury, which excluded her from benefit coverage.

The arbitrator dismissed all of the employer's arguments and concluded that the grievor was totally disabled and entitled to LTD benefits. In coming to that conclusion, he made a number of significant findings that will have repercussions in future cases:

- The absence of objective medical findings does not disentitle a claimant from benefits. Medical reports which rely upon a claimant's self-reporting may be sufficient to prove a disability claim.
- There is no requirement under the 1980 Hospitals of Ontario Disability Income Program (HOODIP) for the grievor to be receiving "reasonable and customary care" or "continuous and appropriate care." The only requirement is that the employee be under the care of a medical doctor. An insurance company cannot deny benefits because it has issues with the quality of care received by the claimant.
- The insurance company cannot deny benefits because it believes that a claimant has been overmedicated.

The employer is now responsible for paying LTD benefits to the member until such time as she is able to return to work.

Importance to ONA: This award squarely addresses many arguments relied upon by insurance companies to deny disability benefits to our members. And it has already had a ripple effect as several other outstanding LTD grievances have been resolved after the employer and insurance company reviewed this decision.

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