

ONA WINS



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

ONA wins human rights victories for members with disabilities against sick leave plans

Region 3 Hospital

This decision confirms that nurses covered under the 1992 HOODIP who return to modified duties should have their 15-week sick leave benefit reinstated when they have worked fulltime for three continuous weeks, regardless if they are not performing their regular duties.

The 1992 HOODIP provides that sick leave benefits are reinstated once a nurse returns to full-time work performing *regular duties* for three continuous weeks. If a nurse returns to full-time hours, but to *modified duties*, she is not considered to be “actively at work.” As a result, a nurse who is disabled and requires modified duties will not have her 15-week sick leave reinstated until such time as she can return to regular duties. In addition, any hours worked while on modified duties are subtracted from the remaining 15-week entitlement, so that a nurse may exhaust the initial 15-week benefit period while actually working full-time hours. In other words, modified work doesn’t count to reinstate sick benefits and counts towards the expiry of sick benefits, even though it is valuable work being performed for the employer.

In this case, a nurse was absent due to illness for approximately six weeks. When she returned, she required modified duties to accommodate lifting restrictions. During the next nine weeks, she completely exhausted her remaining sick leave benefits. A few months later, she was absent for one day due to an unrelated illness. She was not paid for that day because her sick leave benefits had not been reinstated.

The arbitrator agreed with ONA that the provisions of the 1992 HOODIP discriminate against disabled employees. Nurses who require modified work do not have the same entitlement and access to sick pay benefits as other full-time employees.

Importance to ONA: The reinstatement provisions of the 1992 HOODIP have been struck down. Nurses working full-time hours on modified work will not deplete their 15-week sick leave benefit period. After working full-time modified work for three continuous weeks, the 15 weeks of sick leave will be reinstated for the same illness.

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