

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 1 Hospital

In this case, ONA successfully argued that the failure to pay a nurse for her sixth and subsequent absence pursuant to Article 12.07 may be discriminatory in certain circumstances where a member suffers from a disability.

Specifically, multiple absences caused by a chronic recurring condition are to be considered one “period of absence” for the purpose of Article 12.07. Nurses with such conditions may receive short-term disability benefits for what would otherwise have been considered a sixth and subsequent absence.

At issue was whether the 1980 HOODIP definition of “one period of absence” resulted in discriminatory treatment to a nurse who was absent more than five times in a fiscal year. The grievor was absent once every six weeks to receive treatment for a chronic condition. She received short-term disability benefits for her first five absences, but was not paid for the sixth absence, pursuant to Article 12.07. Article 12.07 restricts payment of sick leave benefits on the sixth and subsequent periods of absence during the year.

The 1980 HOODIP provides that one period of absence may include more than one absence as long as the absences are from the same cause of disability and are separated by a period of less than three weeks. Because the grievor’s absences were separated by a period of six weeks, each absence was counted as a separate absence, which disentitled her to sick pay on her sixth period of absence.

The arbitrator agreed with ONA that the application of the three-week rule in the 1980 HOODIP discriminated against employees with disabilities. He suspended the application of the three-week rule in this and similar cases, pending revision of the provision by the parties.

Importance to ONA: Nurses may receive short-term disability benefits for a sixth and subsequent absence, where multiple absences are caused by the same disability. Such absences, despite the length of time separating them, may be counted as “one period of absence” for the purposes of Article 12.07.

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