



## Shipping and the Law

### NLRC decisions on cardiovascular diseases

By: Ruben Del Rosario, Managing Partner, Del Rosario & Del Rosario, February 15, 2006

#### Disability claim denied as seafarer was found to have worked despite said disability claim

Seafarer suffered shortness of breath and chest pains while working on board the vessel. He underwent an angiogram and was repatriated. He was under the care of the company doctor for five months and was found fit to work.

Seafarer went to see another doctor who examined him and found him with impediment grade 88.81% and was unfit to work as a seaman in any capacity.

The Labor Arbiter awarded US\$44,405 in disability benefits. On appeal, the NLRC Commission reversed the findings of the labor arbiter.

The NLRC ruled:

1. Vessel presented evidence to show that seafarer had entered into a contract to work as seafarer while his claim for disability benefits was pending in the NLRC. This shows he was indeed fit to work
2. Under the POEA contract, a third doctor must be chosen by the parties to do an assessment of the seafarer to resolve the contradictory findings of the two doctors. This was not done.
3. The findings of the company physician must be believed as he treated seafarer for more than five months whereas seafarer's doctor only examined him for one day.

The complaint was dismissed.

**Alberca vs. Maine Marine et. al., NLRC NCR CA NO. 042025-04, NLRC NCR OFW 03-01-0113-00, November 23, 2005**

#### Seafarer bound by findings of third doctor agreed upon by the parties

Seafarer was disembarked due to finished contract. Two months later, he was diagnosed to be suffering from hypertensive cardiovascular disease. He filed claim for disability benefits. During the conciliation proceedings, the parties agreed to have the seafarer examined by Dr. Cruz to evaluate seafarer's condition. Dr. Cruz found seafarer "fit to work". The Labor Arbiter awarded US\$60,000 in disability benefits.

On appeal, the NLRC reversed the decision and dismissed the complaint:

The NLRC found:

1. Seafarer's evidence of his illness consisted of a medical report six months from the time he finished his contract. It is thus clear that seafarer did not suffer his illness during the term of his employment contract. This condition is one of the

requirements for any claim of disability benefits.

2. No single complaint about seafarer's physical condition was reported while he was on board the vessel.
3. The parties agreed that seafarer would be examined by a third doctor. This third doctor found seafarer "fit to work". By agreeing to said appointment, seafarer is bound by the findings of said doctor.

**Ramos vs. Fil-Star Maritime Corporation, NLRC NCR CA NO. 035813-03, NLRC CASE OFW (M) 2000-06-00389-30, November 15, 2005**

## **Finished contract belies claim for disability benefits**

Seafarer filed claim for disability benefits alleging hypertensive vascular disease and diabetes. The Labor Arbiter awarded US\$60,000 in disability benefits.

On appeal, the NLRC reversed the decision and dismissed the complaint:

The NLRC found:

1. Seafarer's claim of chest pain and difficulty of breathing while on board the vessel is not supported by any proof. Seafarer disembarked due to finished contract.
2. Seafarer's medical certificate showed he was a known diabetic even prior to his four month service on board the vessel.
3. Seafarer did not submit himself to post-employment medical examination within three days from his disembarkation from the vessel.

Thus, the two requirements for compensability which are: (1) work-related injury or illness; and (2) contracted during the term of the contract, were not met.

**Undag vs. Jepsens Maritime Inc. et. al., NLRC CA NO. 045500-05, NLRC OFW CN. (M) 03-09-2438-00, , October 17, 2005**

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