



Shipping and the Law

By: Ruben Del Rosario, Managing Partner, Del Rosario & Del Rosario, April 10, 2006

Various NLRC Decisions

In this issue are three NLRC decisions.

- **A second officer cannot claim benefits as he could still work if he takes his medications.**
- **Sickness wages are only payable during the duration of the sickness.**
- **Diabetes is not work-related.**

Second Officer cannot claim benefits as could still work by taking medications

Second Officer was repatriated on 15 February 2000 due to hypertension (stage II) and diabetes mellitus (type II). He was treated by the company designated physician and was declared fit to work provided he continues intake of his medicines. Seafarer saw two private physicians who declared him "unfit to work". Seafarer filed a claim for permanent disability. The Labor Arbiter awarded US\$60,000 equivalent to Grade One disability benefits.

The NLRC reversed the ruling stating that: the company doctor certified that seafarer is fit to work; the findings of the company designated doctor who treated seafarer for five months cannot be overcome by private physicians who only saw seafarer once; and, diabetes and hypertension are manageable if patient will take the prescribed medications for the duration of the contract. As to the concern of the seafarer regarding food in the ship, the respondent vessel interests "declared that such diet and medical requirements are available in the ship particularly for an officer like complainant."

Marcelo Rapajon vs. Seagull Maritime Corporation, et. al.; NLRC OFW-Case No. (M)-01-10-2102-00; NLRC NCR CA No. 038281-03, February 24, 2006

Seafarer's sickness wages payable only for duration of sickness.

Seafarer had a head injury on November 23, 2001 and was repatriated. He claimed for 120 days sickness wages despite the fact that he was fit after 60 days of treatment. The NLRC ruled that seafarer was only entitled to 60 days sickness allowance as the medical certificate issued by company physician states that seafarer's needs "sixty days more for treatment". Also, seafarer had already worked and found another employment after his 60 days of treatment.

Carrera vs. Agile Maritime Resources, Inc. et. al., NLRC Case No. SRAF-OFW-1-7-3-0086-02; NLRC NCR CA No. 034203-03, December 22, 2005

Diabetes milletus held not work-related

Seafarer worked on board various vessels of respondent vessel interest since 1993. On his last contract in 2002, he suffered blurring of the eye and after the end of his contract was referred to the company doctor. He was eventually diagnosed to have diabetes milletus with diabetic retinopathy and was declared unfit to work. His claim for disability benefits was denied as his illness was not work-related. The NLRC ruled that diabetes milletus is not work-related as declared by the company physician. "This type of illness runs in families, which means that it is hereditary and not affected by the person's environment or workplace. Neither are the causes of diabetes milletus acquired or suffered exclusively on board vessels."

Loreto Mendoza vs. Ventis Maritime et.al., NLRC NCR Case No. OFW-(M)-04-05-01224-00; NLRC NCR CA No. 045055-5, February 28, 2006

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