

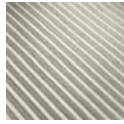
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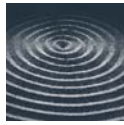
This Presentation is provided as an information service to our clients and is a summary of current legal issues. The Presentation is not meant as legal opinions and readers are cautioned not to act on information provided in this document without seeking specific legal advice with respect to their unique circumstances.

Coffee Talk - May 15, 2008 “Sick Leave Abuse”

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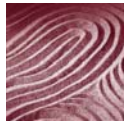
Sick Leave Abuse



- Key Concepts



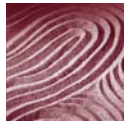
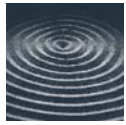
- Employee Obligations



- What Qualifies
- Discipline Response
- Case Law



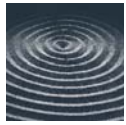
Key Concepts



- Sick leave to provide period of convalescence
- Programs depend on honesty of employees
- Person claiming benefits bears onus
- Abuse of sick leave is serious misconduct – ‘breach of trust’



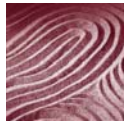
Employee Obligations



- To be honest with physician and employer

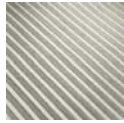


- To report changes in condition

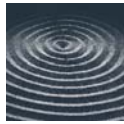


- To follow treatment plan

- To act in a manner consistent with recovery



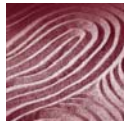
What Qualifies as Abuse?



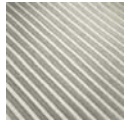
- Claim of sick leave when not sick



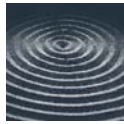
- Claim of sick leave when can perform modified duties



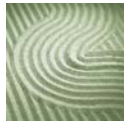
- False reporting about ability or direction received
- Working elsewhere while on sick leave



Disciplinary Considerations



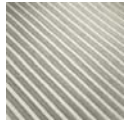
- Length of service and disciplinary record



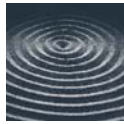
- Deterrence is a legitimate consideration



- Not necessary to show ‘fraud’ – just dishonesty/untruthfulness
- Often a question of evidence – excuses, surveillance
- Can be grounds for significant discipline, including termination



Cases



- *Canada Post and APOC (Brown)* – claim illness to get time off
- *Johnson Matthey Ltd. and USWA (Slotnick)* – failure to notify of change of condition
- *Edmonton (City) and ATU (Koshman)* – working elsewhere & cooperating