

Foreman Can't Claim Total Disability & Request an Accommodation



After a foreman believed he couldn't perform his duties due to stress and medical reasons, he wanted to be moved to a heavy equipment operator position that he'd previously held. The employer refused and put him on sick leave. He filed a claim for long-term disability and a complaint, alleging a failure to accommodate. The arbitrator explained that disabled workers don't have a right to their accommodation of choice nor can they 'self-diagnose' their disability. The employer had a right to request additional medical information as to his condition and the work he could perform. In addition, by filing a claim for long-term disability, the foreman was saying he was totally disabled and unable to perform *any work* at all, much less be a heavy equipment operator. So the arbitrator ruled that the foreman hadn't proven that the employer failed in its duty to accommodate [*Canadian Union of Public Employees, Local 1193 v. Cape Breton (Regional Municipality)*, [2014] N.S.L.A.A. No. 4, March 28, 2014].