

Too Intrusive to Require Nurse to Submit to IME Before Returning to Work



A registered nurse injured her neck and shoulder. After being out of work, the nurse provided the hospital with a doctor's note saying she could return to modified duties with restrictions. The hospital required the nurse to submit to an independent medical exam (IME) before she returned, which she did. The hospital then gave her a modified job. But the union claimed the hospital violated its duty to accommodate by requiring the IME. The arbitrator agreed, rejecting the hospital's argument that it needed the IME to fulfill its duties. The arbitrator found that it was reasonable for the hospital to seek medical clarification as to the nurse's right side rotator cuff before returning her to work. But it could've gotten the necessary information in a less intrusive manner than an IME, such as from the nurse's family physician or treating orthopedic specialist [*William Osler Health System v. Ontario Nurses' Association*, [2015] CanLII 40722 (ON LA), July 3, 2015].