

COMPENSATION NEWS

MONTHLY REPORT

You must have substantial evidence to discontinue temporary disability

This is an unpublished appellate decision.

The question often arises as to when you can cease paying temporary disability. This case presents an interesting scenario.

The applicant had an admitted specific injury and was paid temporary disability benefits. The applicant's treating physician told the applicant to remain off work until April 1, 2004.

The defense obtained a Qualified Medical Examination (QME) dated February 11, 2004. The report indicated the applicant

was not yet permanent and stationary, but the applicant could return to his usual and customary occupation.

The applicant was deposed February 12, 2004, and indicated the QME asked him if he could return to work. The applicant indicated he could. The applicant indicated he was not an expert.

The employer ceased temporary disability payments on February 13, 2004. The applicant continued treatment with his primary treating physician.

The applicant filed for an expedited hearing because he did not return to work. The Workers' Compensation Judge (WCJ) concluded that temporary disability benefits could be terminated by the employer on February 12, 2004.

A petition for reconsideration was filed and the Workers' Compensation Appeals Board agreed with the WCJ. The applicant then filed a WRIT.

The appellate court indicated there is no statutory definition of temporary disability. It has been defined by the courts. Temporary disability is a substitute for lost wages. The court indicated you could not bolster a medical opinion, not in existence, with the applicant's lay opinion. Therefore, there was no substantial evidence,

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