

## Civil Service Conciliation and Arbitration Scheme

### General Council Report 1447

(Meeting/s of 18 December 2002, 26 February 2003, 27 March 2003, 23 April 2003, 28 April 2004, 27 October 2004)

Claim that if a family bereavement occurs during a period of sick leave the bereavement leave should be restored.

The claim was presented by the Staff Side at the December 2002 General Council. It was raised again at the General Councils of February 2003, March 2003 and April 2003. The Staff Side said that it was entirely appropriate that when a family bereavement occurred during a period of sick leave that the bereavement leave should be restored to the officer at the end of the sick leave. The Staff Side felt that such restoration of bereavement leave would be a help and a support to staff in the process of bereavement.

The Official Side quoted *Circular 22/98: Parental Leave, Annex 1, para. 6* to the effect that bereavement leave is granted only at the time of the bereavement and not at the end of, or instead of, sick leave. The Official Side stressed, however, that when the bereavement occurs during *annual leave* it is allowable to substitute annual leave for bereavement leave, and hence have the annual leave restored.

As agreement on the issue was not found at General Council, the Staff Side asked for the appointment of a facilitator. The Official side agreed to attend. A hearing before the facilitator, Mr. Tom Pomphrett, took place on 28 April 2004. In his report (copy attached) on the hearing Mr. Pomphrett said that having spoken to both sides separately he "was satisfied that agreement could not be reached and that both sides were staying with their original positions."

This report, recording disagreement, was therefore adopted on 27 October 2004

## **Mediation Hearing 28 April, 2004-07-21**

### **Claim related to Compassionate Leave arising during periods of sick absence**

The P.S.E.U has presented a claim for subsequent application of Compassionate Leave in circumstances where a death (to which compassionate leave applies) occurs during a time when the officer is absent on sick leave.

In support of this claim the union said that employees could retain the benefit of either privilege or annual leave if bereavement occurs during absence for such reasons. The union also said that the occurrence of such circumstance would be so low as to render the cost of this negligible.

The official side gave an outline of the basis of the claim and the sequence of events leading to the mediation hearing. The official side said that this claim could not be conceded. In the case outlined by the union in respect of privilege day or annual leave it is the annual leave or privilege day that can be taken at a date and not the compassionate leave. It was also pointed out that compassionate leave is not an annual entitlement but an entitlement time off in the specific circumstance of the death of a close relative (defined in the scheme). It is not therefore intended to be time given at a later stage just to ensure an effective benefit.

The union also pointed out that reports from the European Foundation for improvements in Living and Working Conditions indicated that the effect of a bereavement could be felt for up to two months afterwards and that a person could need the leave at that point.

On query by the mediator it was learned that a specific precedent for the unions claim could not be identified but the union felt that in the private sector managers exercised far more discretion.

The mediator pointed out that while special leave may be granted in some companies to staff with particular difficulties arising from bereavement it would not in his opinion be true that deferred compassionate leave applies.

Having spoken to both sides separately the mediator was satisfied that agreement could not be reached and that both sides were staying with their original positions. On this basis the meeting concluded.

Tom Pomphrett

Mediator

Agreed report, recording disagreement.

This report was adopted on 27 October 2004