

147263



FILED
SKAMANIA COUNTY
JAN 15 11 54 AM '03
O. Laury
J. HICKEY

SKAMANIA COUNTY CLAIM FOR DAMAGE FORM

CLAIMANT: THIS CLAIM MUST BE FILED WITH THE

SKAMANIA COUNTY CLERK OF THE BOARD
Skamania County Auditor's Office
Skamania County Courthouse
240 North West Vancouver Avenue, Room 27
Stevenson, WA 98648

FOR OFFICE USE ONLY:

CLAIM NO. _____

DATE FILED: _____

COPIES TO: _____

NO DAMAGES CAN BE PAID BY SKAMANIA COUNTY UNLESS THIS FORM IS COMPLETE. THIS PROVISION CANNOT BE WAIVED.

ATTACHMENTS: YES() NO

1. Name (including spouse if married): (Please Print)

EDWARD L. POWELL

2.

PO. Box 214 Trout Lake WA 98650
Address City State Zip

3.

HM Phone: 360-355-5338 WK Phone: _____ MSSG Phone: _____

4.

Date and time of incident: Continuous

5.

Location of incident:

WA

6.

Describe in narrative form and in detail exactly how the incident occurred:

See Attached Letter

7.

What is the amount of damages claimed arising out of the following circumstances (Include estimates and bills, if available):

140.5 Hrs x \$20.88 = \$2933.64

8. Please list name and address of any and all witnesses or persons involved:
(Please Print)

NA

9. Describe the damages or injuries you sustained as a result of the incident:

Loss of Sick Leave

10. Was incident investigated by a police officer? Sheriff ☒ State Patrol ☐
City _____

11. If a vehicle was involved in the incident, describe: Make NA
Model _____ Year _____ State _____ License No. _____
Insurance Company _____ Policy Number _____

12. Describe what you did after the incident occurred: I GAVE NA ISSU
with the Sheriff

13. Describe the conversations you had, if any, with County personnel during or after
the incident occurred. NA

14. How did you identify the County as the party responsible for your damage?
See Attached

I certify under penalty of perjury under the laws of the State of Washington that the
information contained in this claim is true and correct.

DATED THIS 14 DAY OF Jan, 2003

Ed Parrell
Claimant's Signature

File Name: Commiss/Risk Mang/Claims/Claim For Damages

NOTE: Personal property (car, etc.) damages are to be accompanied by 2 estimates for repair costs. The Skamania County Risk Manager will investigate this claim. The decision to honor this claim will be based upon that investigation. Making a false report or providing false evidence is a crime and punishable by fine and/or imprisonment. Additional pages may be attached if needed to answer the questions.

January 10, 2003

Board of County Commissioners
PO Box 790
Stevenson, WA 98648

Dear Board Members;

ISSUE:

Sick leave was taken away from me during the time I was on medical disability under LEOFF 1.

ACTION REQUESTED:

Credit sick leave back to me during the time I was on LEOFF 1 disability.

HISTORY:

Starting in 1998 I had been seeing a physician for depression related issues. That depression was treated primarily through medication, however the cause of the depression was not explored at that time. In November of 2001 the depression and medical conditions resulting from stress related issues became a serious problem with my personal and professional life. At the time of consultation with my physician it was determined, in his opinion, that the medical problems were due to my job at the Sheriff's Department. My physician suggested I leave the job and that my condition should improve. I was placed on medications to help treat those medical issues. It was also suggested I contact a psychologist for a diagnosis and treatment as well.

Starting in November 2001, I made regular appointments with Dr. Brice McCullum for his diagnosis and treatment. After several consultations Dr.

McCullum advised my conditions were a result of stress related job issues and he confirmed the diagnosis of my primary care physician. His treatment for the condition was to leave the job.

On the First of December 2001 I met with Sheriff Bryan and Chief Deputy Brown to advise them of the medical and psychological diagnosis and my intent to take a medical disability. Due to the complexity of my job and the training that was needed to ensure someone could take over, it was suggested I wait until the first of March to officially leave. By mutual agreement I waited until March 1 to apply for disability leave through LEOFF 1.

TIME LINES:

1998. I started treatment for depression and medical conditions that resulted from that condition.

October 2001. I contacted Dr. Fitzsimmons as a result of stress related complications that occurred in March and April of 2001.

November 2001. The diagnosis from Dr. Fitzsimmons for my condition and the treatment recommendation to leave the job was discussed.

November 2001. Met with Dr. McCullum for a diagnosis and treatment.

December 2001. Dr. McCullum confirmed the diagnosis of Dr. Fitzsimmons and determined the treatment recommended was to leave the job.

December 2001. Met with Sheriff Bryan and Chief Dave Brown to advise I would be following the recommendations of both doctors by taking a medical disability leave through LEOFF 1. Because of training needed to fill my position I elected to remain until March.

March 1, 2002. I applied for disability leave through the LEOFF 1 board including doctor reports.

April 26, 2002. I received a written request from the LEOFF 1 board to supply additional information from Dr. Fitzsimmons and Dr. McCullum related to the disability request.

May 21, 2002. I received a letter requesting I contact a Dr. Simon David Glass on June 11, 2002.

June 11, 2001. I met with Dr. Glass at his office in Lake Oswego, Oregon.

August 14, 2001. I was advised by phone that the disability board denied my disability leave and was ordered to return to work. I also contacted Sheriff Bryan with that information.

August 16, 2002. I received a written order from the LEOFF 1 disability board indicating I was considered healthy and was ordered to return to work.

August 19, 2002. I returned to work at the Sheriff's Office and requested an appeal to the State LEOFF board.

September 1, 2002. End of the 6 month disability. To be put on disability retirement. (10 working days after the order to return to work.)

October 14, 2002. I received a letter from the State LEOFF board confirming the local LEOFF 1 board's decision.

October 17, 2002. I wrote the local LEOFF 1 board, with a copy to Marlea McKenzie, requesting re-instatement of my sick leave taken from me during the time I was on disability leave.

October 25, 2002. I received a letter from Marilyn Breckel indicating I needed to respond to my employer as a grievance rather than request re-instatement of my sick leave through the LEOFF 1 board.

October 30, 2002. A formal request to re-instate my sick leave was made to Sheriff Bryan.

OPINION:

It is my contention that Skamania County is in error by taking sick leave from a member of the LEOFF 1 retirement system. It is policy that any LEOFF 1 member must apply for disability leave through the LEOFF board after being off for 3 consecutive days. After being placed on disability the initial 3 days is to be restored to the members account.

The intent of the LEOFF 1 legislation was to give member in the LEOFF 1 retirement system a method comparable to workmans compensation. The intent of the LEOFF 1 legislation is to be fully compensated when one of its members is on disability leave.

When talking to Debbie VanCamp about the disability issue I was told that disability was never granted to someone without first being seen by a LEOFF 1 boards physician. In research of that fact I found that the only person who was requested to see a physician in the recent past was Sgt. Mark Rogen. I learned from Sgt. Rogen that he was ordered to see a physician, not to be placed on disability leave, rather to determine if he was fit to return to work.

RCW 41.26.120 states " Any member, regardless of age or years of service may be retired by the disability board, subject to approval by the director as hereinafter provided, for any disability incurred in the line of duty which has been continuous since his or her discontinuance of service and which renders the member unable to continue service. No disability retirement allowance shall be paid until the expiration of a period of six months after the discontinuance of service during which period the member, if found to be physically or mentally unfit for duty by the disability board following receipt of his or her application for disability retirement, shall be granted a disability leave by the disability board and shall receive an allowance equal to the full monthly salary and shall continue to receive all other benefits provided to active employees from the employer for such period. However, if, at any time during the initial six-month period, the disability board finds the beneficiary is no longer disabled, the disability leave allowance shall be canceled and the member shall be restored to duty in the same rank or position, if any, held by the beneficiary at the time the member became disabled."

The LEOFF board did request I be examined by a doctor of their choosing on June 11, 2002. The results of that examination determined I was fit for duty. According to the local board's finding of fact, that doctor determined I was fit for duty in March of 2002. I believe that to be impossible to determine by a physician who examined me for 1/2 hour in June. I contend that his only ability to judge my condition could determine at the time I was examined by him that I was fit for duty. Nonetheless it was not until August 17, 2002 that the local board determined I was fit for duty and ordered me to return to work.

Because of the spirit in which the LEOFF 1 laws were enacted, the RCW's in which those laws apply, and the County's past practices I believe they are in error by taking my sick leave away during the time I was on disability leave. Additionally the Skamania County Personnel Policy 12.8.7 also infers a LEOFF 1 member shall be placed on disability leave rather than use sick leave. The current practice of the County under the LEOFF 1 interpretation is in contradiction with its own policy and procedures. The Personnel Policy was adopted after the LEOFF 1 laws had been past, therefore it surmises that the initial interpretation of the LEOFF 1 laws are consistent with spirit of the LEOFF 1 laws and not consistent with the how the County interprets those law with my case.

Even though the state LEOFF 1 board cannot express an opinion regarding local practices and policies, their order implies the same thing:

"Pursuant to RCW 41.26.200, the Order of the Skamania County Disability Board denying Edward L. Powell disability leave effective August 14, 2002 and declaring him fit for duty and eligible for work, has been review and is affirmed by the Department of Retirement Systems."

CONCLUSION:

I believe that Skamania County is in error by taking sick leave from me during the time I was on disability leave, based on past practices, the spirit in which the LEOFF legislation was enacted, the County Personnel Policy, the implication of the state LEOFF 1 boards order, and the time frame involved in the entire process.

The facts involved in this issue are clear. The intent and spirit of the LEOFF 1 legislation are clear. The state and local policies are also clear. As a result I am requesting those days of sick leave taken from me during my disability leave be credited back to me.

I would like to discuss this issue with you if you have any questions.

Sincerely,

Ed

Edward L. Powell

Cc: Peter Banks
Prosecuting Attorney, Skamania County