

CE v. IBRD (Preliminary Objection), Decision 479 [2013]

The Applicant challenged the decision that she was disabled so as to be eligible for Long Term Disability benefits, pursuant to which her World Bank employment was terminated. She contended, among other things, that a wrong standard was applied and that the medical evaluations undertaken were influenced by the Bank's Health Services Department and a performance evaluation of which she was unaware and to which she had no opportunity to respond. She also claimed that her termination was discriminatory. The Bank filed a preliminary objection to the Application.

First, the Bank contended that the Applicant had, contrary to Article II(2)(i) of the Tribunal Statute, failed to exhaust available remedies by failing to appeal the decision on her eligibility for the Long Term Disability program to an Administrative Review Panel pursuant to Staff Rule 6.22. The Applicant argued her situation fell outside the Staff Rule because she was challenging the fact that she was *granted* Long Term Disability, rather than a "denial of a claim for disability benefits" as envisaged in the Staff Rule. The Tribunal held that the Applicant was entitled to rely on the plain and ordinary meaning of the Staff Rule, as then in force, which provided no avenue for an appeal against a *grant* of benefits. The Tribunal further held that the Applicant's claims required the application of legal standards and that it would be possible for the Tribunal to adjudicate them without the special medical expertise of an Administrative Review Panel.

Second, the Bank contended that the claims raised by the Applicant had been waived and released pursuant to a Settlement Agreement ("Agreement") entered into with the Bank. The Tribunal recalled the importance it attached to the enforcement of binding settlements. Referring to the terms of the Agreement, the Tribunal concluded it had the effect of waiving all claims related or connected to the claims and issues referred to therein. The Tribunal could not accept the broad terms of waiver were intended to preserve the Applicant's right to bring a claim related to the process underlying the determination of her eligibility for the Long Term Disability program. While mindful of the fact that many courts take a cautious approach to upholding waivers of employment rights, the Tribunal held that no policy reason prevented it from upholding the waiver in the circumstances of this case, including the substantial nature of the financial settlement, the Applicant's representation by counsel and the broad terms used in the Agreement.

The Tribunal further held that Staff Rule 9.01, paragraph 4.08, renders confidential information learned during the Bank's mediation process inadmissible before the Tribunal.

Decision: The Application was dismissed. The Bank was ordered to pay the Applicant's legal costs.