

Summary of Decision No. 470

BX,
Applicant

v.

International Bank for Reconstruction and Development,
Respondent

In the course of the Applicant's probationary period, his managers concluded that his performance was unsatisfactory and decided not to confirm his appointment. The Applicant challenged (1) the decision not to confirm his appointment and the failure of his managers to take his medical condition into account when making that decision; (2) his managers' failure to require him to undergo a fitness for duty assessment prior to terminating his employment; and (3) the Bank's failure to inform him of the possibilities of taking medical leave and being placed on the Bank's Short Term Disability program.

Despite the Bank's claim that the Applicant's managers were not aware of the gravity of his medical condition and had not confirmed his appointment because he had not proved his suitability for continued employment, the Tribunal found that the evidence showed that the Applicant's managers were aware or should have been aware of the Applicant's medical condition but failed to take it into account when deciding that his appointment would not be confirmed because his performance was unsatisfactory. The Tribunal accordingly found that, in this respect, the Applicant's managers had not exercised their discretion in a reasonable manner when they decided not to conduct a fitness for duty assessment for the Applicant.

As for the claim that his managers failed to inform him of the possibility of taking medical leave and the Bank's Short Term Disability program, the Tribunal found that the Bank had no obligation to inform the Applicant specifically of the Staff Rules dealing with these matters, as all staff members have access to and are presumed to be familiar with the Staff Rules. The Tribunal also found that the Staff Rules in question had been brought to the Applicant's attention.

Decision: The Tribunal awarded the Applicant three months' net salary as compensation as well as attorneys' costs.