

6-24-85
101.2(b)
6.2(b) - Phys. Cler.
JUN 25 1985

MEMORANDUM OF DISPOSITION

**CASE CLOSED
LOGGED AND FILED**

RECEIVED JUN 24 1985

FACT FINDING COMMITTEE CASE NO. 3071-84-167
STOCKTON DIVISION GRIEVANCE NO. 16-349-84-33

SUBJECT OF GRIEVANCE

This grievance concerns the right of the grievant under Subsection 6.2(b) of the Clerical Agreement to a Child Care Leave of Absence with the Company's assurance of reinstatement in her former classification and headquarters, if she requests reinstatement within six months of the start of such leave.

FACTS OF THE CASE

The grievant is a regular status employee and holds the classification of Part-Time Service Representative, Customer Services, headquartered in Stockton. Her workday is from 10:00 a.m. to 2:00 p.m., Monday through Friday. On March 5, 1984, she was granted paid sick leave based on medical evidence that she was unable to work due to pregnancy. Her child was born April 6, 1984. Her last paid sick leave day was March 21, 1984. She began a leave of absence on March 22, 1984. The grievant requested clarification from her supervisor concerning the starting and ending dates of her leave; between which, if she returned to work, she would be eligible for placement in the same classification and headquarters she held prior to her leave. The grievant was told that the six-month leave period during which she would be eligible to return to her previous classification and headquarters would begin on the first day she was absent following her last paid sick leave day. The Union took exception to this interpretation and grieved.

DISCUSSION

The issue before the Committee is to determine the intent of the bargaining parties when they established the six month job protection clause in Subsection 6.2(b) of the Clerical Agreement.

Was it intended that the six-month job protection period begin with the first day of unpaid absence per Section 6.3; or did the bargainers intend the six-month job protection period to start upon the medical release of the affected employee for full duty?

Based on discussions with representatives of both the Company and Union who participated in bargaining Subsection 6.2(b), the Committee has learned that an employee's six-month job protection period begins on the date she is released by her physician for full duty and upon being granted a Child Care Leave. In no case however, will a total of all continuous leaves granted exceed twelve consecutive months. It is expected that the affected employee will provide the Company with medical clarification of her work status not later than six weeks following the termination of pregnancy.

In most cases, assuming no medical complications arise, the employee's period of temporary disability will end no more than six weeks following termination of pregnancy and upon obtaining a medical release for full duty.

While not an issue in this case, it should be noted that Subsection 6.2(b) of the Clerical Agreement also provides for an extension of the Child Care Leave of Absence beyond the first six months. Such extension may be granted for a period not to exceed six consecutive months or for a period not to exceed a total of twelve consecutive months when in conjunction with other unpaid leaves of absence. During such extension of the Child Care Leave of Absence, the employee is not assured a return to her former classification and headquarters. See attached Exhibit I for examples (not intended to be all inclusive).

CONCLUSION

The Committee finds that the grievant was incorrectly advised regarding her six-month job protection period.

DECISION

It is the decision of the Committee that the grievant may be granted a Child Care Leave for up to six months from the date she is medically released for full duty. In the present case, unless the grievant can provide medical evidence to the contrary, the Committee will assume she was medically released for full duty six weeks following the birth of her child (i.e., on June 20, 1984) and therefore her Child Care Leave will begin on June 21, 1984 and end on December 20, 1984. During this period, if the grievant applies for reinstatement, she will be returned to her former classification and headquarters. The parties have mutually agreed to a system distribution of this Fact Finding decision. This case is closed.

C. L. Wheeler
C. L. WHEELER, Union Member

~~concur/dissent~~ 6-24-85
Date

M. Harrington
M. HARRINGTON, Union Member

~~concur/dissent~~ 6-24-85
Date

M. A. Short
M. A. SHORT, Company Member

~~concur/dissent~~ 6/13/85
Date

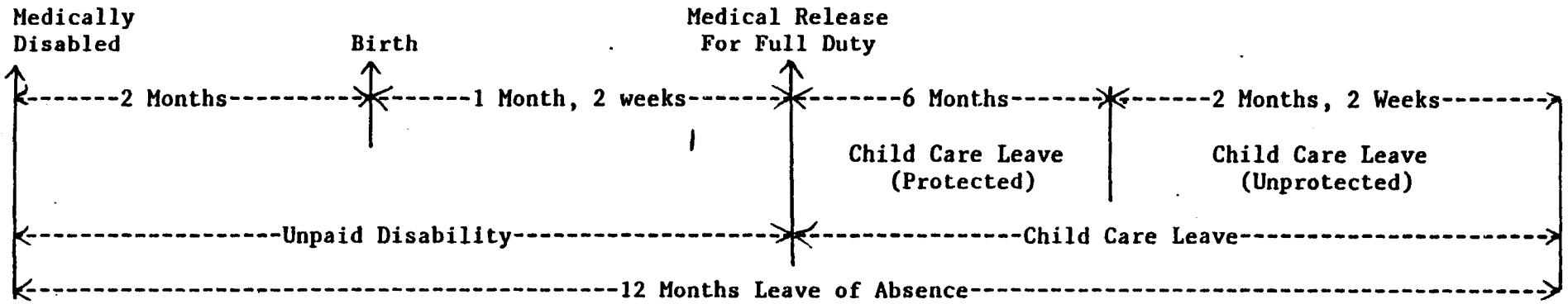
R M Edwards
R. M. EDWARDS, Company Member

~~concur/dissent~~ 6/13/85
Date

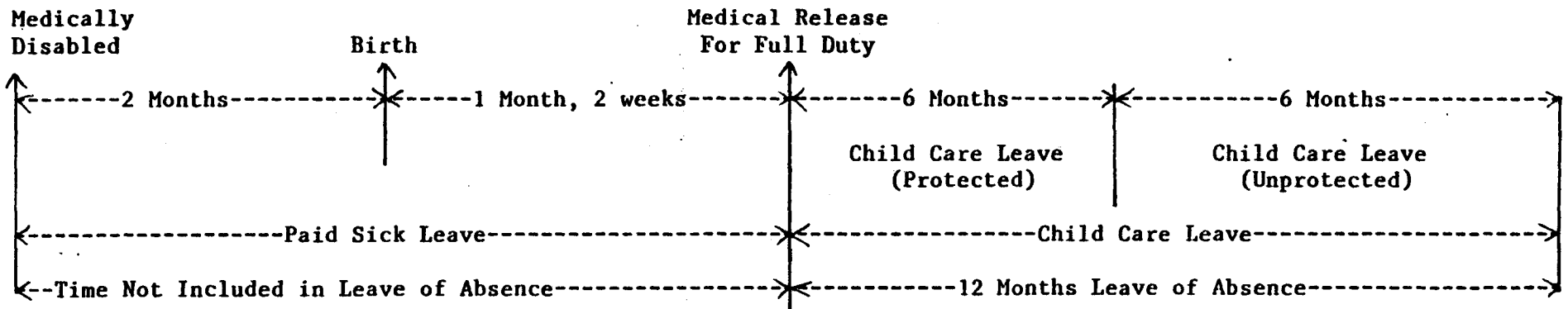
FF 3071-84-167

101.

EXAMPLE ONE



EXAMPLE TWO



EXAMPLE THREE

