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# Employee Rejected Light Duty Assignment- Is She Still Entitled To Benefits?

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When workers' compensation cases involve law enforcement officers injured in the line of duty, state law requires that the officer be paid a full salary even if the officer can no longer perform his or her job duties. N.C. Gen. Stat. § 143-166.14. However, where the officer "refuses to perform any duties to which the person may be properly assigned," the applicable state agency may cease paying the officer. N.C. Gen. Stat. § 143-166.19. This standard is different from a traditional "suitable employment" analysis pursuant to N.C. Gen. Stat. § 97-2.

In *Yerby v. North Carolina Department of Public Safety*, — S.E.2d — (N.C. Ct. App. Mar. 1, 2016), a juvenile justice officer sustained a compensable workers' compensation injury when she fell at work. The employee's treating physician assigned light-duty work restrictions. He also specified that the employee could not lift any weight using her right arm.

Thereafter, the employer offered employee a modified work assignment. The proposed assignment was a light-duty role that would occasionally place employee in close proximity to juvenile offenders. Employee rejected the offer. She felt the role might require her to restrain a violent offender. A vocational rehabilitation expert testified that the assignment would create a persistent element of danger due to employee's potential direct contact with offenders. In response to her refusal, the employer ended employee's salary continuation benefits.

Interestingly, the Court noted that while the work duties the employer offered did not violate employee's restrictions because they did not require her to lift weight with her right arm, they were not "properly assigned" as they exposed her to certain risks, including violent confrontations with juvenile offenders. Those risks made the job unsuitable. The Court affirmed the Industrial Commission's decision to reinstate salary continuation benefits.

The Court's decision in *Yerby* is specific to suspension of salary continuation benefits following a refusal of properly assigned duties pursuant to N.C. Gen. Stat. § 143-166.19. While *Yerby* is not directly related to private sector claims, the Court's analysis of constructive refusal of suitable employment is illustrative and may suggest how the Court will rule on constructive refusal cases in the future.

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