

Ontario – Can an employee go on STD for complications due to pregnancy, before Maternity leave starts, or will the maternity leave just start earlier to cover this period?

written by Conner Lantz | October 28, 2020

We have an employee who is due to go on maternity leave towards the end of November, and had requested for the extended period (17 weeks maternity +61 weeks parental). However, she has been advised by her doctor not to work beginning immediately (and has a note to support this) due to complications arising due to her pregnancy. She wants to go on STD (Short term disability) for the gap period from end of October to end of November and then transition over to Maternity leave. She has already exhausted all available leaves (vacation, sick days) so is presently on unpaid leave as she wanted to hear from the doctor if she is allowed to work or not.

Questions:

1. Is this possible, allowed and legal? (STD for 1 month, then transition to maternity leave + parental leave for 78 weeks = 82 weeks = around 19 months)
2. Or will it be considered that her maternity leave has just started a month earlier than expected? (Maternity +parental leave for 78 weeks = around 18 months)
3. If this is possible, we will need to issue an roe showing illness as the reason, and we would need to issue a fresh ROE when her maternity leave starts?
4. If this is considered as an early start to maternity leave, issuing an ROE is easy (reason – maternity). Does this need to be backdated to when the sick leave started, or dated to the date on the doctor's note? (which is a week later than start date)

Note: Benefits provider has confirmed she is eligible for STD coverage during this gap month.