

THE HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

DEBORAH A. JOHNSON,

Plaintiff,

v.

GENERAL ELECTRIC COMPANY; and  
METROPOLITAN LIFE INSURANCE  
COMPANY,

Defendants.

Case No. 3:17-cv-05397-RBL

FINDINGS OF FACT AND  
CONCLUSIONS OF LAW AND  
ORDER

THIS MATTER having come before the Court on the parties' cross-motions; the Court having reviewed all pleadings and other documents filed by the parties relating to the motions, including:

1. Plaintiff's Motion for Judgment under Rule 52 of Fed. R. Civ. P. (Dkt 20);
2. Defendants' Motion for Summary Judgment or, Alternatively, Motion for Judgment on the Record (Dkt 22);
3. Declaration of Carolyn Smith (Dkt. 23);
4. Declaration of Jim Brault, with attachments (Dkt. 24);
5. Administrative Record filed 4/26/2018 (Dkt. 25);
6. Defendants' Opposition to Plaintiff's Motion for Judgment (Dkt. 27);
7. Plaintiff's Opposition to Defendants' Motions for Summary Judgment or Judgment on the Record (Dkt. 28);

ORDER ON FINDINGS OF FACT AND CONCLUSIONS OF  
LAW (Case No. 3:17-CV-05397-RBL) - 1

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1 8. Declaration of Todd. R. Renda in Support of Motion for Admission of Additional  
2 Evidence, with attachments (Dkt. 28-1);

3 9. Defendants' Reply Brief in Support of Motion for Summary Judgment or,  
4 Alternatively, Motion for Judgment on the Record (Dkt 29);

5 10. Plaintiff's Reply Brief (Dkt. 31);  
6 and the Court having reviewed the records and files herein, the Court hereby makes the following  
7 Findings of Fact and Conclusions of Law:

8 **FINDINGS OF FACT**

9 1. Defendant Metropolitan Life Insurance Company ("MetLife") issued Policy No.  
10 22222-G to plaintiff Deborah Johnson's former employer, General Electric Company ("GE"),  
11 which provides long-term disability ("LTD") benefits to employees who are totally disabled from  
12 working under the GE Long Term Disability Plan (the "Plan"). AR 409-429.

13 2. The amount of the gross LTD benefit under the Plan is 50% of "normal straight-  
14 time annual earnings" or "NSTAE." AR 412. The Plan defines NSTAE as follows:

15 Except as hereinafter provided in this paragraph, the term [NSTAE] means the  
16 amount which an employee is earning as salary from the Company at the applicable  
17 time or was earning when last actively at work for the Company, extended to an  
18 annual basis.

18 To such extent as the Pension Board may provide, the term [NSTAE] may include  
19 night shift bonuses, commissions, other variable compensation and any special or  
20 supplemental payments, provided however that [NSTAE] shall not include payments  
21 for overtime (straight-time and premium). Where any inclusions in [NSTAE] are paid  
22 at times less frequent than an employee's regular payroll records, the Pension Board  
23 may determine the compensation base to be used.

21 In accordance with the foregoing definition, an employee's [NSTAE] shall be  
22 determined as follows:

23 \* \* \*

24 (2) For employees paid semi-monthly: 24 times the employee's regular semi-monthly  
25 salary.

26 AR 422.



1 court simply proceeds to evaluate whether the plan administrator correctly or incorrectly denied  
2 benefits ....” *Abatie v. Alta Health & Life Ins. Co.*, 458 F.3d 955 (9th Cir. 2006).

3 2. Even under *de novo* review, the claimant has the burden of proving her claim.  
4 *Bunger v. Unum Life Ins. Co. of Amer.*, 196 F. Supp. 3d 1175, 1186 (W.D. Wash. 2016).

5 3. Under Fed. R. Civ. P. 52, the Court conducts a bench trial on the administrative  
6 record and such other evidence that it admits. *Kearney v. Standard Ins. Co.*, 175 F.3d 1084,  
7 1094-95 (9th Cir. 1999). The Court has the ability to “evaluate the persuasiveness of conflicting  
8 testimony and decide which is more likely true.” *Id.* at 1095.

9 4. The Court has the discretion to consider evidence outside of the administrative  
10 record. *See Bunger v. Unum Life Ins. Co. of Amer.*, 196 F. Supp. 3d 1175, 1189 (W.D. Wash.  
11 2016).

12 5. The court admits and considered the following evidence in addition to the  
13 administrative record: Declaration of Carolyn Smith, filed by defendants at Dkt. 23; Declaration  
14 of Jim Brault (attaching Johnson’s payroll records and a GE memo to employees addressing  
15 premium rates) filed by defendants at Dkt. 24; and attachments to the Declaration of Todd Renda,  
16 filed by plaintiff at Dkt. 28-1.

17 6. On *de novo* review, the Court construes Plan terms consistent with their plain  
18 language. *Opeta v. NW Airlines Pension Plan for Contract Employees*, 484 F.3d 1211, 1220 (9th  
19 Cir. 2007).

20 7. The Court interprets the definition of NSTAE under the Plan to include  
21 Ms. Johnson’s salary in NSTAE and not additional payments she received for commissions,  
22 Leadership Life insurance, health facility reimbursements and retention/hiring bonuses, and finds  
23 that this is the only reasonable interpretation.

24 8. Defendants correctly calculated Ms. Johnson’s LTD benefits based on her annual  
25 salary of \$219,300, and MetLife is and has been paying benefits in accordance with the terms of  
26 the Plan.

