

**OPINION NO. 72-107****Syllabus:**

When an employee of a fire department misses his twenty-four hour shift because of illness, his accumulated sick leave is debited twenty-four hours. (Opinion No. 70-021, Opinions of the Attorney General for 1970, approved and followed.)

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**To: Claire M. Ball, Jr., Athens County Pros. Atty., Athens, Ohio**  
**By: William J. Brown, Attorney General, November 16, 1972**

You have requested my opinion on the following question:

"In the case of an employee of a Fire Department who misses his twenty-four hour shift because of illness, how is his accumulated sick leave debited against his employment ledger? Is his accumulated sick leave debited a complete twenty-four hours because of his absence from his shift, or is he docked only eight hours of his accumulated sick leave?"

I assume that you refer to a non-charter city operating under a general plan of municipal government and subject to the general law of the state governing municipalities. Sections 737.11 and 737.13, Revised Code; Opinion No. 67-078, Opinions of the Attorney General for 1967. The provision of this general law for sick leave of municipal employees appears in Section 143.29, Revised Code, which reads as follows:

"Each employee, whose salary or wage is paid in whole or in part by the state, each employee in the various offices of the county service and municipal service, and each employee of any board of education \* \* \*, shall be entitled for each completed eighty hours of service to sick leave of four and six-tenths hours with pay. \* \* \* Unused sick leave shall be cumulative up to one hundred twenty work days, \* \* \*."

It appears that your fire department is organized according to the "platoon system", which requires the fireman to work twenty-four hours, and then be off at least the next twenty-four hours. Provision for such a system is made in Section 4115.02, Revised Code, which reads in pertinent part:

"The chief of the fire department of each municipal

corporation, township, or fire district employing three or more full-time paid fireman, unless exempt under this section, shall divide the uniform force into not less than two platoons, and where the uniform force is so divided into two platoons the said chief shall keep a platoon of the uniform force on duty twenty-four consecutive hours, after which the platoon serving twenty-four hours shall be allowed to remain off duty for at least twenty-four consecutive hours except in cases of extraordinary emergency. Each individual member of the platoons in addition to receiving a minimum of twenty-four hours off duty in each period of forty-eight hours shall receive an additional period of twenty-four consecutive hours off duty in each period of eight days so that no individual member shall be on duty more than a total of seventy-two hours in any period of eight days. The chief shall arrange the schedule of working hours to comply with this section. \* \* \*

This section insofar as it relates to off duty periods does not apply to any municipal corporation, township, or fire district that adopts a forty-hour week or to any municipal corporation, township, or fire district which has a three platoon system the members of which work twenty-four consecutive hours immediately followed by forty-eight consecutive hours off duty, but the provisions relating to the two weeks' leave of absence do apply."

I fail to see how there can be any real question in the light of these two Sections, that the General Assembly intended that a fireman be credited the exact number of hours he has worked, and that he be debited the exact number of hours he is absent on sick leave. My predecessor was faced with the converse of your question in Opinion No. 70-021, Opinions of the Attorney General for 1970, in which he was asked whether a fireman, who worked a twenty-four hour day, could compute cumulative sick leave by multiplying the 120-day statutory allowance by 24. My predecessor said sick leave is credited, not on the basis of "work days", but on "work hours". His conclusion, with which I agree, was:

"The provision in Section 143.29, Revised Code, that unused sick leave shall be cumulative up to one hundred twenty days envisions an accumulation of up to nine hundred sixty work hours (120x8) even though some employees may regularly work other than the normal eight hour day. (Opinion No. 3950, Opinions of the Attorney General for 1954, overruled.)"

In specific answer to your question it is my opinion, and you are so advised, that when an employee of a fire department misses his twenty-four hour shift because of illness, his accumulated sick leave is debited twenty-four hours. (Opinion No. 70-021, Opinions of the Attorney General for 1970, approved and followed.)