

Municipal Fire and Police Retirement
System of Iowa
950 Office Park Road, Suite 321
West Des Moines, Iowa 50265

IN THE MATTER OF:	)	
	)	
RONALD F. WAFFLE,	)	DECISION
	)	
Appellant.	)	

Iowa Code Section 411.6(3) (1991) and
Iowa Code Section 411.6(5) (1991)

STATEMENT OF THE CASE

The Appellant, Ronald F. Waffle, filed for accidental disability benefits under Chapter 411 with the City of Council Bluffs, Iowa sometime prior to December 31, 1991. The City could not provide the precise date of filing or a copy of the application. Based on his application, Mr. Waffle was seen in the Spine Clinic at University Hospitals in Iowa City on December 11, 1991. Since no decision was reached by the local board prior to January 1, 1992, Mr. Waffle's case was transferred to the statewide System.

On February 10, 1992, the System denied Mr. Waffle's application for disability on the basis that the medical evidence (i.e., the report of the December 11 examinations in Iowa City) was insufficient to establish disability under the Code.

On March 5, 1992, Mr. Waffle appealed the denial of his claim

through his attorney, Michael J. Winter. The hearing was held on March 27, 1992, at the System's office in West Des Moines, Iowa. Dean Johnson, Harold Fryman and Judy Bradshaw (Chair) comprised the Disability Appeals Committee. Attorney Alice Helle of Des Moines, Iowa was present as counsel to the Committee. Mr. Waffle participated in the hearing and was represented by his attorney, Mr. Winter, of Council Bluffs, Iowa. Dennis Jacobs, Executive Director, appeared on behalf of the System. No other witnesses or parties were present.

At the close of the hearing, the Committee agreed to hold the record open for the submission of additional medical evidence. The Appellant waived his right to file a brief or proposed findings of fact and conclusions of law.

FINDINGS OF FACT

The Committee, having heard the testimony and reviewed all of the evidence in the System's file, including all exhibits submitted during the hearing and additional medical reports submitted subsequently, now finds that Mr. Waffle has a significant back impairment which renders him unable to perform adequately as a police officer. The Committee further finds that such impairment is the result of an injury the Appellant suffered on the job in January of 1991.

The Appellant testified that he first injured his back in a job-related incident which occurred in about 1984. He then reinjured his back in a self-defense class at work in about January

of 1991. He was off work for a few weeks. He returned to the department for two or three weeks, but could not continue due to the pain. The Appellant also testified that he has difficulty sitting for more than 20 minutes at a time.

A Work Tolerance Screening introduced by the Appellant noted that he performed within the "light" category of physical demand characteristics throughout the assessment. He failed to perform at the "medium" level required for his job as a police officer. "Primary limiting factors" were said to be "positional intolerance, increased symptomatology with increased loads, decreased PDC level, poor awareness of postural principles and decreased body mechanics." Dr. Weinstein, one of the reviewing physicians at University Hospitals, reviewed the above screening subsequent to the hearing and opined that, based on the report, the Appellant was not able to meet the physical demands of being a police officer, but could work in some other capacity.

Reports from the Appellant's treating physician, Robert N. Brown, M.D., were also submitted. Dr. Brown stated that he would restrict the Appellant, as a result of his injury, to no more than 30 minutes of sitting or standing, no running, no lifting/carrying of more than 20 pounds, and no wearing of a heavy belt for more than 30 minutes at a time. Dr. Brown opined that Mr. Waffle is permanently and totally disabled from returning to his job as a police officer.

The Appellant also submitted a letter from Mark Moline, the

Council Bluffs Police Chief. The Chief stated that the department can provide no permanent employment in any capacity which would not require sitting in a car for considerable periods of time, physical body contact, running, emergency vehicle operation, frequent bendings and occasional heavy lifting. The Chief further stated that the department could employ Mr. Waffle in no capacity where he could continue to take Tylenol and Codeine on a daily basis.

CONCLUSIONS OF LAW

1. Iowa Code Section 411.6(3) states:

Ordinary disability retirement benefit. Upon application to the system, of a member in service or of the chief of the police or fire departments, respectively, any member shall be retired by the system, not less than thirty and not more than ninety days next following the date of filing the application, on an ordinary disability retirement allowance, if the medical board after a medical examination of the member certifies that the member is mentally or physically incapacitated for further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired.

2. Iowa Code Section 411.6(5) states (in relevant part) as follows:

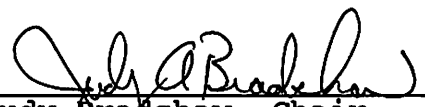
Accidental disability benefit. Upon application to the system, if a member in service or of the chief of the police or fire departments, respectively, any member who has become totally and permanently incapacitated for duty as the natural and proximate result of an injury or disease incurred in or aggravated by the actual performance of duty at some definite time and place, or while acting pursuant to order, outside of the city by which the member is regularly employed, shall be retired by the system, if the medical board certifies that the member is mentally or physically incapacitated for further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired.

It is the conclusion of the Committee that the Appellant meets the requirements of Chapter 411.6(5) for accidental disability benefits. There is evidence both from the medical board, from Appellant's own doctor, and from the Police Chief that he is incapacitated for duty as a police officer. Furthermore, it is uncontroverted that the injury which resulted in this incapacity occurred during the performance of his duty as a police officer. An award of accidental disability benefits under Section 411.6(5) is warranted based on this record. Such benefits shall be effective April 16, 1992, the date of the Committee's decision, since the Appellant reportedly received full pay prior to that date.

DECISION

Ronald F. Waffle is hereby awarded accidental disability benefits under Chapter 411 of the Iowa Code, effective with April 16, 1992, the date of the final decision on his claim.

Dated this 16th day of April, 1992.



Judy Bradshaw, Chair
Disability Appeals Committee

Copies to:

Ronald F. Waffle
204 Red Bud Lane
Council Bluffs, IA 51503

Michael J. Winter
Attorney at Law
222 South 6th Street
Council Bluffs, IA 51501

Mark Moline
Chief of Police
City of Council Bluffs, Iowa
209 Pearl Street
Council Bluffs, IA 51503-4270

Dennis Jacobs
Municipal Fire and Police Retirement
System of Iowa
950 Office Park Road, Suite 321
West Des Moines, IA 50265

Alice E. Helle
Brown, Winick, Graves, Donnelly,
Baskerville and Schoenebaum
Suite 1100, Two Ruan Center
601 Locust
Des Moines, IA 50309

Shirley Runte
Director, Finance Department
City of Council Bluffs, Iowa
209 Pearl Street
Council Bluffs, IA 51501

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing instrument was served upon each of the attorneys of record of all parties to the above-entitled cause by enclosing the same in an envelope addressed to each such attorney at his respective address as disclosed by the pleadings of record herein, with postage fully paid, and by depositing said envelope in a United States Post Office depository in Des Moines, Iowa, on the 29 day of April, 1992.

Barbara Prock