

MUNICIPAL FIRE AND POLICE RETIREMENT
SYSTEM OF IOWA

950 Office Park Road, Suite 321
West Des Moines, Iowa 50265

IN THE MATTER OF:	)	
	)	
DOUGLAS E. BOAL	)	DECISION
	)	
Applicant	)	

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

STATEMENT OF THE CASE

The Appellant, Douglas E. Boal ("Boal") filed his application for disability benefits from the System on February 21, 1992. He stated on the application that he was filing for accidental disability "and/or injury leave with full benefits." He also indicated that he was filing for ordinary disability only if accidental or injury leave were determined to be inappropriate. On May 22, 1992, the medical board at the University of Iowa Hospitals and Clinics reported its findings to the System regarding Boal's disability. An initial determination approving Boal for ordinary (rather than accidental) disability benefits was made by the System on June 1, 1992. Upon a timely appeal by Boal, a hearing was held before the appeals committee of the Board (comprised of Mary Taylor, Chair; Harold Fryman and Frank Gray) on August 26, 1992 at the offices of the System. Boal appeared and was represented by attorney Channing Dutton of Des Moines. Captain Knight of the Des Moines Police Department, and Nelda Mickle, City Solicitor, appeared for the City of Des Moines in support of the System's award of ordinary disability benefits. Dennis Jacobs, Executive Director, appeared on behalf of the System. Attorney Alice Helle of Des Moines, Iowa was present as counsel to the Committee. Post-hearing briefs were filed by both Boal and the City.

FINDINGS OF FACT

The Committee, having heard the testimony and reviewed the evidence of record, finds as follows:

1. On September 19, 1991, Boal was reassigned to street duty, after an assignment at the Des Moines airport which had lasted for about four years.

2. On the date in question, Boal completed his assignment, but felt increasingly anxious and suffered a panic attack. Boal continues to suffer symptoms of anxiety and depression.

3. In their clinical summary of the evaluations at University Hospitals, psychiatrists Cizadlo and Prohl opined that Boal's psychiatric condition renders him disabled to perform his duties as a police officer, and that this disability is likely to continue indefinitely. The diagnosis was of major depressive disorder with prominent anxiety features.

4. Opinion evidence was presented of a relationship between Boal's reassignment of September 19, 1991 and his current mental problems and resulting disability.

5. The Committee finds that Boal is currently disabled from performing his duties as a police officer.

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.

3. "Disease" under the statute is exclusively defined to mean heart disease or any disease of the lungs or respiratory tract. Boal does not suffer from a "disease" as that term is defined by the statute, and therefore must establish that he is disabled as a result of an injury in order to establish entitlement to accidental disability benefits.

4. The statute provides that accidental disability benefits may be payable under the statute for a mental disorder. This would be appropriate, for example, in the case of a head injury with a resulting mental impairment. There is no precedent, however, for the payment of accidental disability benefits based on a non-physical mental injury. Section 411.6(5) is best construed to provide for accidental disability benefits for a mental impairment only if that impairment is the result of a physical injury.

5. It is the conclusion of the Committee that Boal has not established a compensable "injury" and thus is not entitled to accidental disability benefits under the statute. Boal was properly approved for ordinary disability retirement benefits.

DECISION

The application for ordinary disability retirement benefits by Douglas E. Boal under Chapter 411 is hereby approved, but his application for accidental disability benefits under the statute is hereby denied.

Dated this 30 day of October, 1992.

Mary Taylor, Chair
Mary Taylor, Chair
Disability Appeals Committee

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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 4 day of November, 1992.

Linda Fack