

**MUNICIPAL FIRE AND POLICE RETIREMENT
SYSTEM OF IOWA**

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

IN THE MATTER OF:

EDWIN L. LINDAUER

Applicant

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DECISION

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

STATEMENT OF THE CASE

The Appellant, Edwin L. Lindauer ("Lindauer") filed his application for accidental disability benefits from the System on August 7, 1992. On October 6, 1992, the medical board at the University of Iowa Hospitals and Clinics reported to the System that it was unable to fully evaluate Lindauer's functional capacity due to a 20 lb. lifting restriction imposed by Lindauer's personal physician, and was thus unable to certify whether or not Lindauer was incapacitated for further performance of duty as a police officer. A proposed initial determination denying Lindauer for disability benefits, pending temporary lifting of the weight restriction, was made by the System on October 26, 1992. Upon a timely appeal by Lindauer, a hearing was held before the appeals committee of the Board (comprised of Lynn Manhart, Chair; Harold Fryman and Sherry Meier) on December 16, 1992 at the offices of the System. Lindauer appeared and was represented by attorney Douglas M. Henry of Dubuque. The City of Dubuque did not appear. Dennis Jacobs, Executive Director, appeared on behalf of the System. Attorney Alice Helle of Des Moines, Iowa was present as counsel to the Committee. Lindauer waived the right to file a post-hearing brief.

CONCLUSIONS OF LAW

1. Iowa Code Section 411.5(8) states:

The system shall designate a medical board to be composed of three physicians who shall arrange for and pass upon all medical examinations required under the provisions of this chapter, except that for examinations required because of

disability three physicians from the University of Iowa hospitals and clinics who shall pass upon the medical examinations required for disability retirements, and shall report to the system in writing its conclusions and recommendations upon all matters referred to it. Each report of a medical examination under section 411.6, subsections 3 and 5, shall include the medical board's rating as to the extent of the member's physical impairment.

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. The statute requires a certification from the medical board as to the member's incapacity for duty as a prerequisite to an award of disability benefits. The medical board was unable to provide such a certification in this case without a temporary lifting of the weight restriction for testing purposes.

4. It is the conclusion of the Committee this case should be referred back to the Executive Director for purposes of obtaining the necessary further evaluation by the medical board, consistent with the letter from Lindauer's personal physician dated December 15, 1992. Following receipt of the certification of the medical board, the Executive Director shall render a revised decision.

DECISION

The application for accidental disability retirement benefits by Edwin L. Lindauer under Chapter 411 is hereby referred back to the Executive Director for purposes of obtaining the required certification by the medical board and reaching a revised decision.

Dated this 17th day of December, 1992.


Lynn Manhart, Chair
Disability Appeals Committee

Copies to:

Douglas M. Henry
Fuerste, Carew, Coyle, Juergens & Sudmeier, P.C.
200 Security Building
151 West 8th Street
Dubuque, IA 52001-6832

Barry A. Lindahl
Corporate Counsel
City Hall
Dubuque, IA 52001

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

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 18th day of December, 1992.


