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

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

IN THE MATTER OF:	)	
	)	
RICHARD L. CRAIG	)	DECISION
	)	
Applicant	)	

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

STATEMENT OF THE CASE

On November 7, 1991, the Chief of the Iowa City Fire Department submitted an application to the local fire pension board for ordinary disability benefits for Richard L. Craig ("Craig"). Craig then submitted his own application for accidental disability benefits on November 8, 1991. No decision was reached by the local board on the application prior to the January 1, 1992 effective date of the consolidation, so the applications were subsequently forwarded to the Municipal Fire and Police Retirement System of Iowa (the "System") by the city, along with reports of the December 7, 1991 and December 17, 1991 medical examinations at University Hospitals which had been arranged for by the local board pursuant to the statute. The System denied both ordinary and accidental disability benefits in a letter dated February 5, 1992 on the basis that the medical evidence did not establish a "permanent" condition. A timely notice of appeal was filed on March 3, 1992. The case was subsequently remanded to the city, since the statewide board has no jurisdiction over "temporary" disabilities under the statute. The city's temporary disability board arranged for an August, 1992 re-examination of Craig by University Hospitals. Due to the new prognosis, the issuance of the System's rules which include definitions of "permanent" and "temporary" disability and the fact that Craig had by then been off work more than twelve (12) months, the local temporary disability board referred the case back to the System for a decision on Craig's appeal. A hearing date was set, but the parties subsequently agreed by stipulation to waive the hearing and to have the System decide the appeal by file review. Pursuant to the stipulation, Craig submitted an additional medical report as Exhibit 10 and both parties filed briefs with the System.

FINDINGS OF FACT

The Committee, having reviewed the evidence of record and the briefs and arguments submitted by the parties, finds as follows:

1. Craig left work on or about September 12, 1991 after becoming distraught over his failure to be promoted and making an offhand comment to the effect of "give me a gun and I'll make some openings for promotion."

2. Craig has been unable to return to work since that time due to emotional and psychiatric problems.

3. Based on their December 1991 evaluations of Craig at University Hospitals, psychiatrists Hoover, Finn and Prohl opined that Craig suffered from "major depressive disorder with marked anxiety in partial remission due to treatment." They stated that his prognosis was "guarded" but that "we cannot say [his condition] is permanent at this time." As a result of the August 1992 re-referral to University Hospitals, psychiatrists Prohl and Beck reached the same diagnosis of "major depressive disorder" and stated "Due to the persistence and severity of his symptoms it is unlikely that he will ever return to work as a firefighter."

4. Opinion evidence was presented from a treating physician that Craig's correct diagnosis is Post Traumatic Stress Disorder and that this condition was caused by a series of emotional traumas Craig reported to that physician as occurring on the job.

5. The Committee finds that Craig is currently disabled from performing his duties as a firefighter.

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. Craig 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.

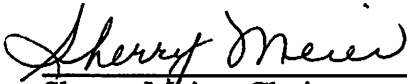
4. The statute provides that accidental disability benefits may be payable under the statute for a mental disorder. This would be appropriate, for example, in the case of a head injury with a resulting mental impairment. There is no precedent, however, for the payment of accidental disability benefits 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. This is consistent with the prior determination by this Board on this issue in the case of Douglas E. Boal, which was decided on October 30, 1992.

5. It is the conclusion of the Committee that Craig has not established a compensable "injury" and thus is not entitled to accidental disability benefits under the statute.

DECISION

The application for ordinary disability retirement benefits on behalf of Richard L. Craig under Chapter 411 is hereby approved; his application for accidental disability benefits under the statute is hereby denied.

Dated this 22 day of February, 1993.



Sherry Meier, 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 _____ day of _____, 1993.