

**MUNICIPAL FIRE AND POLICE RETIREMENT
SYSTEM OF IOWA
950 Office Park Road, Suite 321
West Des Moines, Iowa 50265**

IN THE MATTER OF:	)	
	)	
WILLIAM C. HILTON	)	DECISION
	)	
Applicant	)	

Iowa Code § 411.6(5) (1993)

STATEMENT OF THE CASE

The Applicant, William C. Hilton ("Hilton") filed his application for accidental disability benefits with the System on or about July 13, 1993. On September 30, 1993, the medical board at the University of Iowa Hospital and Clinics reported its findings to the System regarding Hilton's disability. An initial decision denying Hilton's application for disability benefits was made by the System on October 14, 1993. Upon a timely appeal by both Hilton and the City of Waterloo, a hearing was held before the appeals committee of the board (comprised of Dean Johnson, Harold Fryman and Frank Gray, chair) on December 15, 1993, at the offices of the System. Hilton appeared and was represented by attorney Tim Luce. Chief Bernal Koehrsen and Lt. Shook appeared for the City. Dennis Jacobs, Executive Director, appeared on behalf of the System. Alice Helle of Des Moines, Iowa, was present as counsel to the Committee. Officer Hilton, his wife, Diane Hilton and Chief Koehrsen testified in person before the committee, and Dale Phelps, M.D. testified

via telephone. Following the close of the evidence, the parties waived the right to file post-hearing briefs.

FINDINGS OF FACT

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

1. Hilton tripped and fell on his left knee while chasing a suspect on or about October 20, 1992, in the course of his employment as a Waterloo police officer. He subsequently developed pain and instability in the knee, and underwent arthroscopic surgery on March 11, 1993.
2. Hilton's knee has improved since surgery but still occasionally catches and gives out. This is most likely to occur when he is walking on an uneven surface.
3. It is undisputed that Hilton's injury was job related. The issue is whether he is permanently incapacitated for the further performance of duty, so as to entitle him to accidental disability benefits under § 411.6(5).
4. Dr. Phelps opined in a letter to the Chief dated July 6, 1993, that Hilton should not be engaged in patrolling "where he might be required to run on rough ground due to the tendency of his knee to buckle."
5. In the summary of the evaluations at University Hospitals, Dr. Schwartz opined that Hilton has "no objective signs of a chronic left knee injury" and that it was therefore the recommendation of the medical board that he "return

to the work force and continue to work as a police officer in activities that he can symptomatically tolerate."

6. Subsequent to the initial denial of benefits, Dr. Phelps noted that he had discussed this case with Dr. Weinstein of the medical board. Dr. Phelps noted that Dr. Weinstein's evaluation stated that Hilton "could do activities as tolerated." Dr. Phelps stated his opinion that Hilton will not tolerate the requirements of his listed duties as a police officer, and again opined that in view of Hilton's job description and his symptoms, he is disabled from performing as a police office.
7. In a November 9, 1993, letter to the Board, Dr. Weinstein referred to his examination by Hilton and subsequent conversation with Dr. Phelps and stated that he stood by his original evaluation of September 15, 1993, wherein he found no objective findings of disability. As noted by Dr. Phelps, however, Dr. Weinstein's original evaluation, while making no objective finding of disability, was limited by his statement that no further treatment was recommended "aside from activities as tolerated."

CONCLUSIONS OF LAW

1. Iowa Code Section 411.6(5) states (in relevant part) as follows:
 - a. Accidental disability benefit. Upon application to the system, of 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. However, if a person's membership in the system first commenced on or after July 1, 1992, the member shall not be eligible for benefits with respect to a disability which would not exist, but for a medical condition that was known to exist on the date that membership commenced.

* * * * *

2. The medical evidence, while indicating no objective findings of disability, also indicates that Hilton is unable to safely perform the duties of a Waterloo police officer.
3. Hilton is permanently incapacitated for the further performance of duty as a result of the knee injury.

DECISION

The application for accidental disability retirement benefits on behalf of William C. Hilton under Chapter 411 is hereby approved.

Dated this 16th day of December, 1993.



Frank Gray, 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 16 day of December, 1993.


