

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

IN THE MATTER OF:	)	
	)	
STEPHEN C. CLOUGH	)	DECISION
	)	
Applicant	)	

Iowa Code § 411.6(3) (1993) and
Iowa Code § 411.6(5) (1993)

STATEMENT OF THE CASE

The applicant, Stephen C. Clough ("Clough") filed his application for accidental disability benefits with the System on or about December 21, 1993. On March 29, 1994, the medical board at the University of Iowa Hospitals and Clinics reported its findings to the System regarding Clough's disability. An initial decision denying Clough's application for disability benefits was made by the System on April 1, 1994. Upon timely appeal by Clough, a hearing was held before the appeals committee of the board (comprised of Sherry Meier, chair; Vernon Cook and Dean Johnson) on June 21, 1994 at the offices of the System. Clough appeared and was represented by attorney Pamela Prager. Mary Thee, Senior Staff Attorney, appeared for the City of Davenport. Dennis Jacobs, Executive Director, appeared on behalf of the System. Alice Helle of Des Moines, Iowa, was present as counsel to the Committee. Paul From, M.D., Clough and Chief Ryan of the Davenport Fire Department testified before the Committee. Post-hearing briefs were filed by both Clough and the City

FINDINGS OF FACT

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

1. Clough began working for the Davenport Fire Department on or about October 15, 1970. On November 23, 1970, he fell while sliding down a pole at the fire station, resulting in a broken ankle and a severe fracture to his right leg. Clough eventually returned to work following that incident, but has a permanent abnormality of the right leg as a result of the fracture.

2. On October 21, 1993, Clough sustained an off-the-job injury when he slipped from a ladder from about 2 feet off the ground, resulting in pain in his right leg. He

returned to work shortly after this incident, but the pain worsened and he was ultimately diagnosed with a deep venous thrombosis in the area of the 1970 leg fracture and was hospitalized for a week. He last worked on October 23, 1993.

3. Upon the diagnosis of the thrombosis, Clough was placed on the prescription drug Coumadin. He remains on Coumadin therapy. The medical evidence indicates that due to side effects of the drug, Clough is unable to perform as a firefighter as long as he is on Coumadin therapy.

4. Medical evidence from Clough's treating physician, Dr. Motto, and the testimony of Dr. From indicate that Coumadin for a venous thrombosis would typically be continued for a period of up to six months. Clough has already been on the medication longer than that due to continued swelling in his leg. In its certification of February 23, 1994, the medical board stated that Clough might need life-long Coumadin therapy due to the abnormal anatomy in his leg. Dr. From, based on his review of Clough's medical records, also opined that life-long Coumadin therapy might be necessary for that reason.

5. The medical evidence indicates that the thrombosis was caused by the 1993 fall, but there is some evidence which indicates that the longer-term need for Coumadin therapy may be related to the 1970 fracture.

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:

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.

3. Rule 9.2(3)(a) of the System's administrative rules states as follows:

a. A "permanent" disability is a disability, as defined in the statute, which is expected to result in death or which has lasted, or can be expected to last, for a continuous period of not less than twelve months.

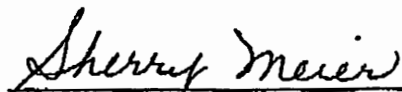
4. Clough is disabled as long as he is on Coumadin therapy. That therapy has already lasted for more than eight months, and the medical evidence indicates that the therapy will most likely last more than twelve months. Clough is therefore permanently incapacitated for the further performance of duty as a firefighter.

5. While both the medical board and Dr. From indicated that Clough may need life-long Coumadin therapy and that the possible long-term need for the drug is related to the abnormal anatomy caused by the 1970 accident, the medical evidence indicates that the thrombosis which prompted the need for Coumadin therapy resulted from the 1993 fall. Since the current incapacity was caused by the off-the-job injury, accidental disability benefits are not payable.

DECISION

The application for accidental disability retirement benefits on behalf of Stephen C. Clough under Chapter 411 is hereby denied; he is hereby approved for ordinary disability benefits under the statute. The vote on this decision was 2 - 1, with Vernon Cook voting for accidental disability benefits.

Dated this 30th day of June, 1994.



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/her 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 30th day of June, 1994.

Santha Koch