

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

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

IN THE MATTER OF:

Claire J. Keigley

Applicant

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DECISION

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

STATEMENT OF THE CASE

The applicant, Claire S. Keigley ("Keigley") filed his application for disability benefits on or about June 20, 1994. On September 12, 1994, the medical board at the University of Iowa Hospitals and Clinics reported its findings to the System regarding Keigley's disability. An initial decision awarding accidental disability benefits was made by the System on September 19, 1994. The City of Ames filed a timely appeal challenging the award of "accidental" rather than "ordinary" disability retirement benefits. A hearing was held before the appeals committee of the board (comprised of Judy Bradshaw, chair; Mary Bilden and Dean Johnson) on December 16, 1994 at the offices of the System. Keigley appeared and was represented by attorney Charles Gribble. John Klaus, City Attorney, appeared for the City of Ames. Dennis Jacobs, Executive Director, appeared on behalf of the System. Alice Helle was present as counsel to the Committee. Testimony was received from Keigley. Telephone testimony was received from both Bruce Pfohl, M.D., of the medical board and Thomas Gartin, M.D., Keigley's personal physician. Post-hearing briefs were filed by both Keigley and the City.

APPLICATION ISSUE

As a threshold matter, the City argued that Keigley's application was for ordinary disability benefits, and that, for that reason, the System could not grant accidental disability benefits. There was some discussion regarding the type of benefit Keigley intended to apply for. His intent is immaterial, however, since the indication by the city or the member of "accidental" or "ordinary" disability benefits on the application form is not binding on the System. The final determination of whether accidental or ordinary disability benefits are payable is for 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. Keigley commenced employment with the City of Ames, Iowa as a police officer on or about November 1, 1966. He last worked on April 30, 1994.
2. Keigley was diagnosed with renal cancer, resulting in the surgical removal of his left kidney in May of 1994.
3. Keigley also has a history of a stress disorder and manic depression.
4. The medical board opined that "Mr. Keigley is impaired by virtue of his renal malignancy. In addition, his job related stress renders him unable to perform the duties of a police officer."
5. Dr. Gartin testified that Keigley has been his patient for about 20 years, and that he has treated him for a variety of things, including stress. He further testified that Keigley is a "perfectionistic achiever" and that aspects of his job that cause him stress include unpredictability and dealing with upsetting situations.
6. It is undisputed that Keigley is permanently incapacitated for the further performance of duty as a result of both the malignancy and the stress disorder. It is further undisputed that his renal malignancy is not job-related. The issue is whether his stress disorder entitles him to accidental disability benefits under § 411.6(5).

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.

* * * * *

c. Disease under this section shall mean heart disease or any disease of the lungs or respiratory tract and shall be presumed to have been contracted while on active duty as a result of strain or the inhalation of noxious fumes, poison or gases. However if a person's membership in the system first commenced on or after July 1, 1992, and the heart disease or disease of the lungs or respiratory tract would not exist, but for a medical condition that was known to exist on the date that membership commenced, the presumption established in this paragraph shall not apply.

3. It is undisputed that Keigley does not suffer from a "disease" as that term is defined by the statute. He must therefore establish that he is disabled as a result of an injury in order to establish entitlement to accidental disability benefits.

4. Keigley has the burden of proving that his mental injury was caused or aggravated by the performance of duty at some definite time and place, and that his mental injury was caused by something more than the day-to-day emotional stress commonly associated with police work.

5. Keigley testified in detail regarding numerous stressful incidents that occurred on the job from 1974 through 1994. There are no contemporaneous medical records connecting any particular unusual work stresses to his stress disorder, however. The medical records mention job-related stress only in general terms, and detail other stressors, including family problems, problems with authority figures and the death of a parent. The medical records also detail his problems with chemical dependence.

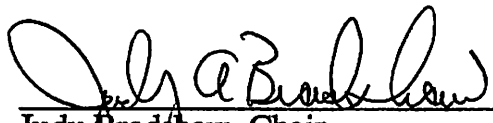
6. The Committee finds that Keigley has failed to prove that his stress disorder was caused or aggravated by the performance of duty at some definite time and place.

7. The Committee further finds that the particular incidents testified to were no more than the day-to-day emotional stresses commonly associated with police work.

DECISION

Claire J. Keigley is hereby denied accidental disability benefits under Chapter 411, and is approved for ordinary disability benefits under the Chapter.

Dated this 11 day of JANUARY, 1995.



Judy Bradshaw, 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 11 day of January, 1995.

Sandra Helle