

MUNICIPAL FIRE AND POLICE RETIREMENT
SYSTEM OF IOWA
2836 104th Street
Des Moines, Iowa 50322

IN THE MATTER OF:

James J. Nagel

Applicant

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DECISION

Iowa Code § 411.6(3) (1995) and
Iowa Code § 411.6(5) (1995)

STATEMENT OF THE CASE

James J. Nagel ("Nagel") filed an application for accidental disability benefits with the System on or about July 24, 1996. On September 24, 1996, the Medical Board at the University of Iowa Hospitals and Clinics reported its findings to the System regarding Nagel's disability. An initial decision awarding Nagel ordinary disability benefits was made by the System on October 14, 1996. Upon timely appeal by Nagel, a hearing was held before the appeals committee of the board (comprised of Frank Gray, chair; Sherry Meier and Lynn Manhart) on January 8, 1997 at the offices of the System. Nagel appeared and was represented by attorney Gregory A. Johnson. The City of Fort Madison was represented by attorney William F. Sueppel. Dennis Jacobs, Executive Director, appeared on behalf of the System. Alice Helle of Des Moines, Iowa, was present as counsel to the Committee. James Nagel testified before the Committee, as did Chief Steven Etko of the Fort Madison Fire Department. Both parties filed 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. Nagel commenced employment with the City of Fort Madison, Iowa as a firefighter on or about July 14, 1986.
2. Nagel began experiencing anxiety symptoms while at work, including headaches, nausea, and a general feeling of doom, in the fall of 1993.
3. Nagel's work performance was satisfactory. He reported only one on-the-job incident

(in late 1995 or early 1996) where he believes his anxiety made him unable to perform. He had to leave a smoke-filled apartment building prematurely because he became nauseated and was concerned that he would vomit while wearing his face mask.

4. Nagel was diagnosed as having a gastric ulcer and duodenitis in 1993 and was treated with medication. He was diagnosed with migraines in May of 1995. He was referred for psychiatric treatment in April of 1996, and was off work for several weeks at the request of his treating psychiatrist and psychologist. He returned to work in June of 1996 at the recommendation of his treating psychologist, Dr. Marchman, to determine if he was able to perform, but his symptoms returned.

5. Dr. Marchman opined, in a letter to Chief Etka dated August 1, 1996, that Nagel's anxiety problems were a direct result of his work as a firefighter, but noted: "To my knowledge, there is no single event that can be seen as causing his problem. In my opinion, it was the cumulative effects of stress and apprehension associated with the job that led to [his symptoms and resulting inability to perform as a firefighter]."

6. The Medical Board found that Nagel is incapacitated from performing as a firefighter as a result of his anxiety disorder, and that the incapacity is likely to be permanent.

7. Nagel testified about three separate incidents in 1993 and 1994 that resulted in deaths that he believes were related to his symptoms. There is no medical evidence directly correlating the incidents in question with his symptoms, however, and Nagel testified that he was not present at one of the incidents at all, and he was merely called in as back-up in the other two.

8. Nagel does not argue that the incidents themselves were unusual for firefighting, but rather argues that their subjective effect on him was unusually stressful (i.e. he experienced more stress than other firefighters involved in the same incidents).

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. In Moon v. MFPRSI, 548 N.W.2d 565 (Iowa 1996), the Iowa Supreme Court held that a member is entitled to an accidental disability pension from the System based on a so-called "mental-mental" injury only if the member establishes that the mental injury was caused by mental stimuli in the work environment and workplace stress of greater magnitude than the day-to-day stress experienced by other workers in his line of work.

4. The focus of the "unusual stress" standard is necessarily the objective nature of the incident in question, rather than its subjective effect on the member.

5. Nagel has failed to prove that his depression was caused or aggravated by the performance of duty at a definite time and place. In addition, he neither alleged nor established that the incidents he discussed were unusually stressful for firefighting. Rather, he argued only that they were unusually stressful to him personally.

DECISION

The application for accidental disability retirement benefits on behalf of James J. Nagel under Chapter 411 is hereby denied, and the award of an ordinary disability retirement pension is hereby affirmed.

Dated this 20 day of February, 1997.


Disability Appeals Committee, Chair

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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 21st day of February, 1997.

Sanford Wells