

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

IN THE MATTER OF:

John P. Engelbrecht

Applicant

)
)
)
)
)

DECISION

Iowa Code § 411.6(3) (1997) and
Iowa Code § 411.6(5) (1997)

STATEMENT OF THE CASE

John P. Engelbrecht ("Engelbrecht") filed an application for accidental disability benefits with the System on or about March 7, 1997. On May 16, 1997, the Medical Board at the University of Iowa Hospitals and Clinics reported its findings to the System regarding Engelbrecht's disability. An initial decision awarding Engelbrecht accidental disability benefits was made by the System on June 9, 1997. Upon timely appeal by the City of Fort Dodge, a hearing was held before the appeals committee of the board (comprised of Frank Gray, chair; Mary Bilden and Martin Pottebaum) on September 4, 1997 at the offices of the System. Engelbrecht appeared and was represented by attorney Thomas J. Bice. The City of Fort Dodge was represented by attorney Maurice C. Breen. Dennis Jacobs, Executive Director, appeared on behalf of the System. Alice Helle was present as counsel to the Committee. Officer Engelbrecht testified before the Committee. Both parties waived the right to file post-hearing briefs.

FINDINGS OF FACT

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

1. Engelbrecht commenced employment with the Fort Dodge Police Department on or about August 18, 1973.
2. On December 26, 1996, Engelbrecht was involved in an on-the-job automobile accident. Specifically, he was seated in his patrol car in the course of an accident investigation, when his patrol car was rear-ended by a truck.
3. Engelbrecht developed pain in his neck and right shoulder immediately following

the accident, and was treated that day at Trinity Regional Hospital. X-ray examination showed osteoarthritis of both shoulders.

4. Engelbrecht has not worked as a police officer since December 26, 1996 due to pain in his neck and right shoulder. He testified that, prior to the on-the-job accident of December 26, 1996, he had no pain and was unaware of the osteoarthritis.

6. The Medical Board found that Engelbrecht is incapacitated from performing as a police officer as a result of "severe degenerative joint disease of his glenohumeral and acromioclavicular joints on the right." The Medical Board further that the incapacity is likely to be permanent.

7. It is undisputed that Engelbrecht is incapacitated from performing as a police officer.

8. Dr. Schwartz of the Medical Board opined in his deposition that if Engelbrecht had not had the accident of December 26, 1997, "he'd probably be able to work today."

9. The Committee finds that Engelbrecht suffered injuries in the line of duty that have rendered him incapacitated for the further performance of duty as a police officer.

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. Officer Engelbrecht has established that he meets the requirements for an accidental disability pension under Iowa Code § 411.6(5), in that he is incapacitated for the performance of duty as the result of an injury incurred in the actual performance of duty at some definite time and place. This is the case whether or not that injury aggravated a pre-existing medical condition.

DECISION

The application for an accidental disability pension on behalf of John P. Engelbrecht under Chapter 411 is hereby affirmed.

Dated this ____ day of October, 1997.

 , Chair
Disability Appeals Committee

Copies to:

Thomas P. Bice
600 Boston Center
P.O. Box 1396
Fort Dodge, Iowa 50501

Maurice C. Breen
Price, Breen & Pearson
603 Snell Building
805 Central Avenue
Fort Dodge, Iowa 50501

Dennis Jacobs
Municipal Fire and Police Retirement
System of Iowa
2836 104th Street
Des Moines, IA 50322

Alice E. Helle
Brown, Winick, Graves, Gross,
Baskerville and Schoenebaum, P.L.C.
Suite 1100, Two Ruan Center
601 Locust
Des Moines, IA 50309

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 _____, 1997.