

CONFIDENTIAL

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

IN THE MATTER OF:

KENNETH A. MIDDLEMAN

Member

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DECISION

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

STATEMENT OF THE CASE

Kenneth A. Middleman ("Middleman") filed an application for accidental disability with the System on or about April 28, 1997. On July 29, 1997, the medical board at the University of Iowa Hospitals and Clinics reported its findings to the System regarding Middleman's disability. An initial determination approving Middleman for an ordinary disability pension was made by the System on August 11, 1997. Upon a timely appeal by Middleman, a hearing was scheduled before the Appeals Committee of the Board (comprised of Lynn Manhart, Chair, Kevin Riper, and Mary Bilden) for November 6, 1997, at the offices of the System. Middleman was given notice of the hearing by means of a letter dated October 6, 1997, but did not appear, either personally or by representative. The City of Dubuque also was given notice but did not appear. Dennis Jacobs, Executive Director, appeared on behalf of the System. Attorney Alice Helle of Des Moines was present as counsel to the Committee. The Committee proceeded with its' deliberations pursuant to the System's Administrative rule 6.19(1).

FINDINGS OF FACT

The Committee, having reviewed the evidence of record, finds as follows:

1. Middleman is currently age 59 and commenced employment with the Dubuque Fire Department in August of 1961.
2. In April of 1993, Middleman was hospitalized with a diagnosis of a "depressive reaction" to financial difficulties. Upon his release from the hospital, he returned to work and continue prescribed therapy and medication for his depression. After a period of light duty, he was returned to full duty in June of 1993.

3. In August of 1993, Middleman became faint while wearing full turnout gear at a training fire and was treated for heat exhaustion and dehydration at the emergency room. The City referred to this incident as a panic attack, but the medical reports indicated only a diagnosis of heat exhaustion and dehydration. He was released later that day with no restrictions.

4. Although Middleman presented a release to return to work with no restrictions, he was told by the Chief he would be on light duty. Middleman responded that he wanted full duty or injury leave, and was then placed on leave. The fire chief filed an application for accidental disability benefits on behalf of Kenneth A. Middleman ("Middleman") with the System on or about September 28, 1993.

5. At the time of the 1993 application, Middleman had a 20 year history of depression and substance abuse. The medical board opined at that time that he suffered from a "major depressive disorder" but that the August incident in question was "more likely related to dehydration/hypothermia." The medical board further opined that his depression may impair his ability to function as a firefighter, but recommended that he receive further treatment "prior to an evaluation for permanent impairment." The 1993 application for disability benefits was denied on that basis, and Middleman returned to work with the fire department on or about April 8, 1994.

6. The City commented on Middleman's current application that there were two or three incidents after his 1994 return to work where, due to anxiety problems, he was unable to enter a burning building with a self-contained breathing apparatus. The City further commented that Middleman had not performed at a satisfactory level since his return, and that they decided as a result not to put him back on firefighting duties effective March 5, 1997.

7. The Medical Board found, based on its current evaluation, that Middleman is incapacitated from performing as a firefighter as a result of major depression and post-traumatic stress disorder.

8. Dr. Pfohl of the Medical Board noted in the medical history portion of his Psychiatry Diagnostic Evaluation that Middleman reported that the onset of his symptoms coincide in time with "losing a child in a fire nine to ten years ago."

9. There are no details in the record of the incident regarding the child's death. The contemporaneous medical records reveal no complaints of unusual work stresses, but do reveal a family history of psychiatric illness and substance abuse and stresses associated with marital and financial difficulties.

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.

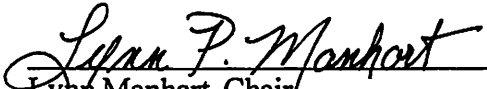
3. In Moon v. MFPSI, 548 N.W.2d 565 (Iowa 1996), the Iowa Supreme Court held that a member is entitled to an accidental disability pension from the System based on a so-called "mental-mental" injury only if the member establishes that the mental injury was caused by mental stimuli in the work environment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

4. Middleman has failed to prove that his condition was caused or aggravated by the actual performance of duty at a definite time and place. In addition, he neither alleged nor established that the referenced incident was unusually stressful for firefighting.

DECISION

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

Dated this 7th day of November, 1997.


Lynn Manhart, 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 _____ day of _____, 1997.