

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

IN THE MATTER OF:

DAVID G. GREEN,

Applicant.

DECISION

Iowa Code § 411.6(5) (1999)
MFPRSI Administrative Rule 9.2(2)(k)

STATEMENT OF THE CASE

The applicant, David G. Green ("Green") filed an application for accidental disability benefits with the System on or about June 5, 1998. On August 18, 1998, the Medical Board at the University of Iowa Hospitals and Clinics reported its findings to the System regarding Green's disability. An initial decision denying Green's disability "subject to rehabilitation" was made by the System on September 11, 1998. Following attempted rehabilitation, Green was re-examined by the Medical Board on June 16, 1999. The Medical Board again reported its findings to the System on July 13, 1999. On August 10, 1999, an initial decision was made awarding Green an accidental disability pension, to commence on August 10, 1999, the date of the decision.

Upon timely appeal by the City of Oskaloosa, a hearing was held before the Appeals Committee of the Board (comprised of Lynn Manhart, chair, Debbie Neels, and Mary Bilden) on February 17 at the offices of the System. Green appeared and was represented by attorney Charles Gribble. Attorney Randy DeGeest appeared for the City of Oskaloosa. Green testified before the Committee, as did Don Sandor, the Oskaloosa City Manager. Attorney Gribble filed a post-hearing brief on behalf of Green.

FINDINGS OF FACT

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

1. Green commenced employment with the City of Oskaloosa, Iowa as a firefighter on or about June 1, 1976.
2. The City does not dispute that Green is permanently incapacitated from the performance of duty, or that Green is entitled to an accidental disability pension. The City disputes only the effective date of the award of the accidental disability pension,

and argues that the award should be retroactive to July 15, 1998. Green concurs in this argument.

3. Green notified the acting fire chief on April 3, 1998 of his intent to resign from the department effective July 15, 1998, and indicated that he was moving from the area. The resignation indicated that Green's last working day would be June 4, 1998, and that he would be on taking his accrued vacation from April 4 through July 14. The City accepted his resignation on April 3, 1998.
4. On May 24, 1998, Green went on sick leave due to low back pain. He remained on sick leave from May 24, 1998 through July 14, 1998, after which he was on vacation pursuant to his previous letter of resignation.
5. On June 4, 1998, Green filed a request with the fire chief to withdraw his April 3 letter of resignation, and asked that he be put on "injury leave" until a decision was rendered by the System on his application for a disability pension.
6. On June 5, 1998, the City denied Green's request to withdraw his letter of resignation.
7. On August 18, 1998, the Medical Board issued its report of Green's impairment evaluation. The Medical Board opined that Green was temporarily impaired, but that he was expected to be able to return to the full duties of a firefighter if he participated in a physical therapy/rehabilitation program.
8. On September 11, 1998, the System conditionally denied Green's application for an accidental disability pension, "subject to rehabilitation."
9. On July 13, 1999, the Medical Board issued its report following Green's rehabilitation. It certified that Green is physically incapacitated from the performance of his duties as a firefighter, and that the incapacity is likely to be permanent.
10. On August 10, 1999, the System approved Green's application for an accidental disability pension, with benefits to commence effective with that date.

CONCLUSIONS OF LAW

1. Iowa Code section 411.6(5) states (in relevant part) as follows:

5. Accidental disability benefit.

- a. 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. A member who is denied a benefit under this subsection, by reason of a finding by the medical board that the member is not mentally or physically incapacitated for the further performance of duty, shall be entitled to be restored to active service in the same position held immediately prior to the application for disability benefits.

2. The System's Administrative Rule 9.2(2)(k) states (in relevant part) as follows:

k. Disability benefits awarded under this Chapter shall be payable as follows:

(1) As a general rule, disability benefits awarded under this Chapter shall be payable effective with the date of staff approval.

(2) Exceptions to the general rule:

(a) Disability benefits shall be payable effective with the date the member's paid leave runs out only if that date is prior to the date of staff approval. For purposes of this subrule (a), the date the member's paid leave runs out shall be determined based on the number of days of paid leave the member is entitled to, regardless of the timing or method of payment for such leave.

(b) Disability benefits may also be payable prior to the date of staff approval if so determined and specified by the Board, for good cause shown by the member.

3. Rule 9.2(2)(k)(2)(a) does not apply because Green resigned from his employment and thus was not entitled to paid sick leave following the effective date of his resignation.
4. Green and the City argue, however, that Green's accidental disability pension should be paid retroactive to July 15, 1998 under Rule 9.2(2)(k)(2)(b) for good cause shown.
5. The Committee notes that Green's resignation was voluntary. The Committee further notes that, if the City had approved Green's request to withdraw his letter of resignation, it appears that Green would have been entitled to a temporary disability payment from the City, rather than an accidental disability pension from the System, based on the Medical Board's report dated August 18, 1998. The Committee expresses no opinion, however, on the issue of whether the City had any obligation to approve the request for withdrawal.

6. The Committee further finds that good cause for retroactive payment under Rule 9.2(2)(k)(2)(b) does not exist.

DECISION

The original effective date of August 10, 1999 for the accidental disability pension payable to David G. Green is hereby affirmed. The City's appeal is hereby denied.

Dated this 30 day of March, 2000.

Lynn Manhart by MAB, Chair
Lynn Manhart
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 such attorney's address as disclosed by the pleadings of record herein on the _____ day of _____, 2000.

By: ☐ U.S. Mail ☐ Facsimile
☐ Hand Delivered ☐ Overnight Courier
☐ Federal Express ☐ Other

Signature _____