

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

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IN THE MATTER OF:

THOMAS A. JACOBS,

Applicant.

DECISION

Iowa Code § 411.6(3) (1999) and
Iowa Code § 411.6(5) (1999)

STATEMENT OF THE CASE

The applicant, Thomas A. Jacobs ("Jacobs") filed an application for accidental disability benefits with the System on or about May 13, 1999. On July 14, 1999, the Medical Board at the University of Iowa Hospitals and Clinics reported its findings to the System regarding Jacob's disability. An initial decision denying Jacobs's disability was made by the System on August 9, 1999.

Upon timely appeal by Jacobs, a hearing was held before the Appeals Committee of the Board (comprised of Sherry Meier, Lynn Manhart, and Mary Bilden, chair) on November 17, 1999 at the offices of the System. Jacobs appeared and was represented by attorney MacDonald Smith. Attorney Connie Anstey appeared for the City of Sioux City. Dennis Jacobs, Executive Director, appeared on behalf of the System. Alice Helle was present as counsel to the Committee. Thomas Jacobs testified before the Committee.

One of the exhibits offered by Jacobs during the hearing was the report of an MRI which was performed on August 13. Since that was subsequent to the report of the Medical Board in this matter, the Committee requested the Medical Board to comment on the MRI. At the suggestion of the Medical Board, and with the concurrence of the Committee and the parties, Jacobs was re-evaluated by the Medical Board on February 29 and March 1, 2000. On March 14, 2000, the Medical Board reported its findings as a result of the re-examination. That report was provided to the attorneys for the parties, who then provided their comments to the System, pursuant to the System's administrative rules. The March 14, 2000 report of the Medical Board and the comments of the parties regarding that report were taken into account by the Committee in its deliberations.

FINDINGS OF FACT

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

1. Jacobs commenced employment with the City of Sioux City as a firefighter on or about January 12, 1976.
2. On July 13, 1998, the chair Jacobs was sitting in at work flipped over, causing him to land backwards and to lose consciousness. He was subsequently diagnosed with "muskuloskeletal strain" and was treated with physical therapy. He was off work after that incident until late November of 1998.
3. In January of 1999, Jacobs was involved in carrying a patient weighing more than 200 pounds on a gurney. The gurney became stuck while Jacobs and one other firefighter were carrying it down a stairway. As a result, he was forced to hold the gurney and the patient overhead for several minutes. Jacobs reports that he had a significant increase in back and neck pain following this incident.
4. Jacobs testified that he injured his back a third time while hoisting a hose during a training exercise.
5. Jacobs has been on "light duty" with the department since March 23, 1999 due to neck and low back pain.
6. Permanent "light duty" is not available.
7. On July 14, 1999, the Medical Board reported a difference of opinion among the evaluating physicians regarding Jacobs' ability to perform the full duties of a firefighter. The two orthopaedic surgeons (Grobler and Found) noted that there was no objective findings that would preclude Jacobs from returning to his full duties. Dr. Harley, of the Division of Pulmonary, Critical Care and Occupational Medicine concluded that Jacobs was unable to perform his full duties since he reports increased pain with any strenuous lifting.
8. Letters from Dr. Thorir Ragnarsson were received as member exhibits during the hearing. Dr. Ragnarsson, a treating neurosurgeon commented in a letter to Jacobs' attorney, MacDonald Smith, that he did not recommend surgical intervention in this case. He also noted that he was not a "work-related specialist, and had thus evaluated the need for surgical treatment, not Jacobs' ability to work as a firefighter.
9. The October 22, 1999 report of Dr. Tim Luce, a chiropractor, was also received as a member exhibit. Dr. Luce found a permanent 5% impairment of the body as a whole, and listed Jacobs' future work restrictions as: "no lifting over 40 pounds, twisting, bending, squatting and excessive turning of the cervical spine. " He noted that Jacobs had tried to work as a firefighter, but had been precluded from doing so by increased pain.

10. The March 14, 2000 report of the Medical Board was similar to its July 14, 1999 report, in that Dr. Hartley concluded that Jacobs was unable to return to his full duties, while two orthopaedic surgeons (Found and Steyers) opined that Jacobs is able to return to his full duties.

CONCLUSIONS OF LAW

1. Iowa Code § 411.6(3) states:

3. 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. 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. 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.

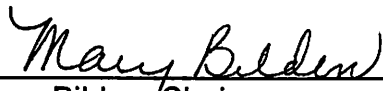
c. Disease under this section shall mean heart disease or any disease of the lungs or respiratory tract and shall be presumed to have been contracted while on active duty as a result of strain or the inhalation of noxious fumes, poison or gases. However, if a person's membership in the system first commenced 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. The preponderance of the evidence indicates no impairment that renders Jacobs incapacitated to perform the duties of a firefighter.
4. Jacobs is not permanently incapacitated from performing the duties of a firefighter.

DECISION

The application for accidental disability retirement benefits on behalf of Thomas A. Jacobs under chapter 411 is hereby denied.

Dated this 11 day of May, 2000.



Mary Bilden, 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 such attorney's address as disclosed by the pleadings of record herein on the 15th day of May, 2000.

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

Signature *Linda Wells*