

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

IN THE MATTER OF:

THOMAS G. MERRITT,

Applicant.

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DECISION

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

STATEMENT OF THE CASE

Thomas G. Merritt ("Merritt") filed his application for an accidental disability pension on or about October 14, 1999. On November 22, 1999, the Medical Board of the University of Iowa Hospitals and Clinics reported its findings to the System regarding Merritt's disability. An initial decision awarding an ordinary disability pension was made by the System on December 14, 1999. Merritt filed a timely appeal challenging the award of an "ordinary" rather than "accidental" disability pension. A hearing was held before the Disability Appeals Committee of the Board (comprised of Marty Pottebaum, William Kinney and Mary Bilden, chair) on May 10, 2000 at the offices of the System. Merritt appeared, and was represented by attorney Joseph M. Bauer. Attorney Thomas D. Warner appeared for the City of Davenport. Dennis Jacobs, Executive Director, appeared on behalf of the System. Alice Helle was present as counsel to the Committee. Testimony was received from Thomas Merritt. Nancy E. Sadler, M.D. and Charles L. Saltzman, M.D. testified by deposition. Both parties waived post-hearing briefs.

FINDINGS OF FACT

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

1. Merritt commenced employment with the City of Davenport, Iowa as a police officer on April 10, 1986.
2. Merritt was first diagnosed with psoriatic arthritis in late 1991. Psoriatic arthritis is a rather rare autoimmune disorder that typically occurs in the hands and feet. According to the deposition testimony of Doctors Saltzman and Sadler, it can be hereditary.

3. Merritt's condition steadily worsened, and resulted in surgery to his left foot in January, 1999, which the surgeon, Dr. Saltzman, described as a "complex reconstruction of the left forefoot."
4. Merritt returned to light duty at the department several weeks after the surgery, but was never able to resume full duty. His last day on the job was December 13, 1999.
5. Both Dr. Charles Saltzman, the treating orthopaedic surgeon and Dr. Nancy Sadler, the treating rheumatologist, testified by deposition that psoriatic arthritis of the foot is aggravated by walking and standing, and was likely aggravated by Merritt's work as a police officer.
6. Merritt provided a list of 33 incidents that occurred over the last two years as an accident investigator for the police department that required him to be on his feet for extended periods of time. He testified that he did not suffer an injury to his foot, but that the prolonged standing and walking aggravated his psoriatic arthritis.

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.

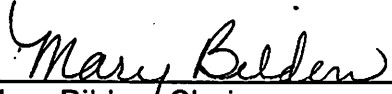
3. It is undisputed that Merritt is permanently incapacitated from the performance of his duties as a police officer, and is thus entitled to at least the ordinary disability pension that he was initially awarded by the System.
4. The issue is whether his disability is the "natural and proximate result of an injury or disease incurred in or aggravated by the actual performance of duty at some definite time and place," and would thus entitle him to an accidental disability pension.
5. The term "disease" is exclusively defined under the statute to mean "heart disease or any disease of the lungs or respiratory tract."

6. Psoriatic arthritis clearly does not fit within the statutory definition of "disease." Neither does the condition result from an injury. Instead, it is medically described as an autoimmune disorder that is often inherited.
7. Since psoriatic arthritis is neither an injury nor a "disease" under the statute, the fact that it may have been aggravated by Merritt's performance of his duties as a police officer is immaterial.
8. Merritt does not meet the statutory requirements for entitlement to an accidental disability pension.

DECISION

The application for accidental disability retirement benefits on behalf of Thomas G. Merritt under chapter 411 is hereby denied. He will continue to receive an ordinary disability pension.

Dated this 11th 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 

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