

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

IN THE MATTER OF:

ALLEN R. LUNDBERG,

Applicant.

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DECISION

Iowa Code § 411.6(3) (2001) and
Iowa Code § 411.6(5) (2001)

STATEMENT OF THE CASE

Allen R. Lundberg ("Lundberg") filed his application for a disability pension on or about May 10, 2001. On July 27, 2001, the Medical Board of the University of Iowa Hospitals and Clinics reported its findings to the System regarding Lundberg's disability. An initial decision awarding an accidental disability pension was made by the System on August 17, 2001. The City of Newton filed a timely appeal challenging the award of an "accidental" rather than "ordinary" disability pension. A hearing was held before the Disability Appeals Committee of the Board (comprised of Sheri Mertz, Tom Ryan, and Mary Bilden, chair) on November 28, 2001, at the offices of the System. Lundberg appeared, and was represented by attorney Lee M. Walker. Attorney Darrin T. Hamilton appeared for the City of Newton. Dennis Jacobs, Executive Director, appeared on behalf of the System. Alice Helle was present as counsel to the Committee. Testimony was received from Lundberg, and from Fire Chief Jim Sparks. Both parties waived post-hearing briefs.

FINDINGS OF FACT

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

1. Lundberg commenced employment with the City of Newton as a firefighter on August 14, 1978.
2. Lundberg first had knee pain when he suffered a severe valgus injury to the left knee while water skiing on July 20, 1979. On July 24, 1979, he had surgery to repair torn ligaments, along with a knee meniscectomy. The surgery was successful, and Lundberg had no further problems with his left knee until 1995.

3. On July 25, 1995, Lundberg injured his knee while "crawling around an attic on rafters" at a fire scene. The "Employer's First Report of Injury" dated July 28, 1995, indicated "injury to bone on left knee."
4. On April 2, 1997, Lundberg reported another on-the-job injury. The "Employee's Report of Injury" stated that Lundberg hurt his knees while doing confined space training, despite wearing knee pads. He was off work until late April, 1997. He returned to duty with restrictions (no climbing stairs or ladders) on or about April 28, 1997, and returned to full duty on or about June 12, 1997.
5. Lundberg testified that he experienced increasing discomfort in his left knee after the 1995 injury. His condition eventually worsened to the point that his knee would "catch" and he would sometimes fall. This resulted in his being put on "light duty" in July of 2000. He remained on light duty through his last day at work, November 20, 2000.
6. On December 4, 2000, Lundberg had a left total knee arthroplasty. His post-operative progress was not satisfactory, and on February 12, 2001, his surgeon, Dr. Stephen Taylor, performed a manipulation of the left knee under anesthesia.
7. Lundberg last worked as a firefighter on November 20, 2000. He has been unable to return to duty since the left total knee arthroplasty.

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.

3. It is undisputed that Lundberg is permanently incapacitated from the performance of his duties as a firefighter as a result of his knee problems, and is thus entitled to at least an ordinary disability pension.
4. The issue of 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," thus entitling him to an accidental disability pension.
5. Lundberg's knee injury was incurred in 1979 as a result of a water skiing accident. The 1979 surgery was successful, however, and Lundberg experienced no further knee problems until he injured the knee on the job in 1995. He again injured the knee on the job in April of 1997. As a result of those injuries, he eventually required a "total knee replacement" and he has been unable to return to his duties as a firefighter.
6. Lundberg's incapacity to perform as a firefighter is the natural and proximate result of an injury (or injuries) incurred in or aggravated by the actual performance of duty at some definite time and place.

DECISION

The decision awarding accidental disability retirement benefits to Allen R. Lundberg under chapter 411 is hereby affirmed.

Dated this 28th day of November, 2001.

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 29 day of November, 2001.

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

Signature Sandra Wells