

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

IN THE MATTER OF:

AMY CORNWELL,

Applicant.

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DECISION

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

STATEMENT OF THE CASE

Amy Cornwell ("Cornwell") filed her application for an accidental disability pension on or about June 18, 2001. On October 5, 2001, the Medical Board of the University of Iowa Hospitals and Clinics reported its findings to the System regarding Cornwell's disability. An initial decision awarding an accidental disability pension was made by the System on October 26, 2001. The City of Des Moines 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 William Kinney, Marty Pottebaum, and Mary Bilden, chair) on April 3, 2002 at the offices of the System. Cornwell appeared, and was represented by attorney Charles Gribble. Attorney Carol Moser appeared for the City of Des Moines. Dennis Jacobs, Executive Director, appeared on behalf of the System. James H. Gilliam was present as counsel to the Committee. Testimony was received from Cornwell and Officer Tim Morgan. The City presented testimony from Sergeant Hickle and Assistant Chief Jack Morton. Both parties waived post-hearing briefs.

FINDINGS OF FACT

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

1. Cornwell commenced employment with the City of Des Moines as a police officer on June 29, 1998.

2. Cornwell's last working day, on full, unrestricted duty was May 1, 2001.
3. The Medical Board found that Cornwell is incapacitated from the performance of duty as a police officer based on a right knee injury.
4. On March 21, 2001, Cornwell was riding as a passenger on patrol duty when the patrol car collided with a vehicle operated by a suspect evading the police. Thereafter, she developed pain in her right knee and ultimately received surgical treatment in the form of arthroscopy with debridement on May 1, 2001. As part of the Medical Board's review of her disability application, the Medical Board had access to and considered the role of a number of injuries and surgical treatment of her right knee in her disability. The Medical Board concluded, "it is our opinion that her disability would exist, even in the absence of her pre-existing condition.

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 Cornwell is incapacitated for the further performance of duty as a police officer, and that this incapacity is likely to be permanent. The issue is whether she is entitled to ordinary or accidental disability pension.
4. The Medical Board had access to and fully considered the impact of Cornwell's pre-existing condition and whether the March 21, 2001 vehicle collision caused her incapacity: The Medical Board concluded that the injury caused by the collision would have incapacitated Cornwell, even if the pre-existing condition was not present.
5. The record contains no other opinion evidence contrary to that of the Medical Board.

DECISION

The award of accidental disability retirement benefits to Amy Cornwell under chapter 411 is hereby affirmed.

Dated this 4th day of April, 2002.

Mary Belden, 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 5th day of April, 2002.

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

Signature

Samuel D. Wells