

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

IN THE MATTER OF:

STEVEN J. SBERAL,

Applicant.

DECISION

Iowa Code § 411.6(3) (2003) and
Iowa Code § 411.6(5) (2003)

STATEMENT OF THE CASE

Steven J. Sberal ("Sberal") filed his application for an ordinary disability pension on or about June 17, 2004. Chief Bob Platts of the Mason City Fire Department joined in the application. On September 22, 2004, the Medical Board of the University of Iowa Hospitals and Clinics reported its findings to the System regarding Sberal's disability. An initial decision denying a disability pension was made by the System on October 14, 2004. Sberal filed a timely appeal challenging the denial. A hearing was held before the Disability Appeals Committee of the Board (comprised of Duane Pitcher, Tom Ryan, and Mary Bilden, chair) on February 9, 2005 at the offices of the System. Sberal appeared, and was represented by attorney Jackie D. Armstrong. Sberal's employer, the City of Mason City, did not appear. Dennis Jacobs, Executive Director, appeared on behalf of the System. Alice Helle was present as counsel to the Committee. Testimony was received from Sberal and from Traci Rohrer, his former wife. Post-hearing briefs were waived.

FINDINGS OF FACT

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

1. Sberal commenced employment with the City of Mason City as a firefighter on or about May 11, 1987. He last worked on for the department on January 13, 2004. He had attained the rank of captain.
2. Sberal was first treated for clinical depression in approximately 1995. He was treated with Paxil for several years. He eventually went off Paxil, but it was prescribed early in 2000, and again beginning in about February of 2003. His depression is currently being treated with Wellbutrin and Depakote. Sberal also has longstanding difficulties with sleep.

3. Sberal also has a history of substance abuse, including abuse of methamphetamine. He testified that he began using methamphetamine regularly about the time he was promoted to captain in 2001 in an ill-advised attempt to cope with the stress of the position. He became dependent and continued to use methamphetamine until he was involuntarily committed to the psychiatric ward by relatives in June, 2003 due to his substance abuse. He entered a residential drug treatment program at Prairie Ridge in Mason City in September of 2003. He has not subsequently used methamphetamine. He is not currently in substance abuse treatment, but attends Alcoholics Anonymous and Narcotics Anonymous meetings.
4. By letter dated September 22, 2004, Doctors Hartley and Pressler of the System's Medical Board noted Sberal "has a history of methamphetamine abuse and major depressive disorder, both of which are in partial remission. In addition, Mr. Sberal may have an undiagnosed sleep disorder." The Medical Board went on to certify that Sberal is mentally incapacitated from performance of the functional demands of his position with the fire department. In a separate letter of the same date, however, Doctors Hartley and Pressler opined that Sberal's disability would not exist absent his methamphetamine abuse.
5. In a letter dated November 5, 2004, Brent Brunsting, M.D., Sberal's treating physician, noted that Sberal reported that his substance abuse was an attempt to self-medicate his depression, and that Sberal felt that the depression caused the substance abuse, not the other way around. Dr. Brunsting commented that he had "no way of telling for sure, as this is a very intertwined problem" but noted that a high number of people with mood disorders, including depression, do self medicate with various substances, including recreational drugs.
6. In a letter dated November 29, 2004, Sberal's treating psychiatrist, Ronald Larsen, M.D., expressed his "shock" at the medical board's opinion, and expressed his opinion that Sberal's disability would exist regardless of his past methamphetamine abuse. He provided additional information in a letter dated January 27, 2005 to Attorney Armstrong. In that letter, he stated that Sberal is a "dual diagnosis" patient, with history, diagnosis and treatment for both substance abuse and major depression. He noted that Sberal is in "sustained remission" from methamphetamine dependence but continues to struggle with depression symptoms. He opined that is his major depression that prevents his return to work. He further stated his opinion that "his ongoing disability is due to his Major Depression since completion of Inpatient Substance Abuse Treatment in the fall of 2003."

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(12) states (in relevant part) as follows:

16. Ineligibility for disability benefits.

a. A member otherwise eligible to receive a disability retirement benefit under this chapter shall not be eligible to receive such a benefit if the system determines that any of the following conditions for ineligibility applies:

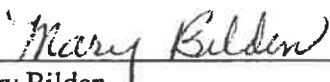
(1) The disability would not exist but for the member's chemical dependency, as defined in section 125.2, on a schedule I controlled substance, as defined in section 124.204, or the member's chemical dependency on a schedule II controlled substance, as defined in section 124.206, resulting from the inappropriate use of the schedule II controlled substance.

3. Methamphetamine is a schedule II controlled substance, as defined in Iowa Code section 124.206. It is undisputed that Sberal's use of methamphetamine was inappropriate.
4. The opinion of the Medical Board supports a finding that that Sberal's disability would not exist absent his methamphetamine abuse. He is therefore ineligible for disability benefits from the System, pursuant to Iowa Code section 411.6(12).

DECISION

The application for an ordinary disability pension on behalf of Steven J. Sberal under chapter 411 is hereby denied. Sberal will be entitled to a service retirement pension from the System at age 55 based on his 17 years of service.

Dated this 9th day of February, 2005.



Mary Bilden
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 _____, 2005.

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

Signature _____