

MUNICIPAL FIRE AND POLICE RETIREMENT
SYSTEM OF IOWA
7155 Lake Drive, Suite 201
West Des Moines, IA 50266

IN THE MATTER OF:

JOSHUA B. OLSEN,

Applicant.

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DECISION

Iowa Code § 411.6(3) (2011) and
Iowa Code § 411.6(5) (2011)

STATEMENT OF THE CASE

Joshua B. Olsen ("Olsen") filed his application for a disability pension on or about May 18, 2011. On July 20, 2011, the Medical Board of the University of Iowa Hospitals and Clinics reported its findings to the System regarding Olsen's disability. An initial decision awarding an ordinary disability pension was made by the System on August 17, 2011. Olsen filed a timely appeal challenging the award of disability benefits and asking to be returned to duty. A hearing was held before the Disability Appeals Committee of the Board (comprised of Kay Cmelik, Scott Sanders, and Marty Pottebaum, chair) on November 16, 2011 at the offices of the System. Olsen appeared and represented himself. Chief William Skare of the Boone Police Department testified as a witness for Olsen. The City of Boone did not appear as a party and was not represented by counsel. Daniel Cassady, Operation Supervisor, appeared on behalf of the System. Alice Helle was present as counsel to the Committee. Testimony was received from Olsen and Chief Skare. Both parties waived post-hearing briefs.

FINDINGS OF FACT

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

1. Olsen commenced employment with the City of Boone as a firefighter on June 6, 2004.
2. He was subsequently cross-trained and certified as a police officer. He held the rank of patrol officer as of the date of his application. He also continued to perform firefighter duties on occasion.
3. His last regular day of work as a patrol officer with the police department was January 23, 2011. A few months prior to that, Olsen began experiencing symptoms

of lightheadedness, blurry vision, chest pain and shortness of breath. These became more frequent, requiring him to cease work.

4. He returned to work May 13, 2011 after his symptoms improved, but the symptoms returned again on May 15, requiring him to leave work.
5. He filed his application for a disability pensions on or about May 18, 2011 at the urging of the chief.
6. Olsen underwent numerous diagnostic procedures and was eventually diagnosed with neurocardiogenic syncope as a result of a positive tilt table test done at the Iowa Heart Center in Ames on February 4, 2011. This condition was described as a "transient miscommunication of the brain to the cardiovascular system." Heart disease and various other conditions were ruled out.
7. The System's Medical Board, in its report dated July 20, 2011, opined that Olsen was unable to perform the full duties of a police officer as a consequence of his "orthostatic hypotension" (dizziness upon a change of position – related to his neurocardiogenic syncope). In the related visit summaries, Paul Lindower, MD noted that he had "reassured" Olsen that his neurocardiogenic syncope is "fairly benign" and that he would benefit from a more regular work schedule, since many of his symptoms seemed to be related to shift changes. Likewise, Laurence Fuortes, MD, also noted that he should seek stable shift schedules. He also observed that Olsen was not yet on a stable regimen of his Midodrine (his prescribed medication), but that if he could be maintained on a stable dose for a longer period with decreased symptoms, there was a reasonable expectation that his inability to perform his job duties would not be permanent.
8. Olsen subsequently corresponded with Dr. Lindower via email and requested clarification of his opinion regarding Olsen's ability to return to work. In an email reply dated August 16, 2011, Dr. Lindower stated,: "It was my opinion that you could return to work with work hour restrictions that would minimize your symptoms. The occupational medicine physician may have felt that this would not be a possibility given the nature of your occupation."
9. Stuart Christenson, MD, of the McFarland Clinic in Ames, a treating cardiologist, stated in progress notes dated August 10, 2011 that Olsen is doing well, that no further testing or therapy was needed at that time and that "he should be able to return to work from my standpoint."
10. Olsen saw Dr. William Talman in the Neurology Department at University Hospitals in Iowa City in June. Dr. Talman stated in his chart notes: "I told him I could see no reason that he could not pursue a normal life style though I strongly suggested that he seek stable shift work rather than rotating shifts."
11. Olsen offered a detailed day-by-day "symptom journal" for the period beginning July 15, 2011 and ending November 15, 2011 (the day before the hearing). He testified that his Midodrine dosage has now been stable for four months, he has had no

symptoms. He returned to work for the Boone Police Department as a community service officer three months ago. He works 40 hours per week in that position dealing with citizen complaints, parking enforcement and various other duties that don't require a sworn officer. He also noted that he has been intentionally "stressing" his body by engaging in strenuous physical activities, with no adverse reactions. Finally, he testified that the City of Boone has three new police officers who would be junior to him, so that he would no longer be required to switch to shifts.

12. Chief Skare testified about Olsen's current duties as community services officer and confirmed that the city had hired three new officers who are junior to Olsen and would be the first to be "bumped" from the night shift to the day shift. He indicated that it Olsen would have to switch shifts under those circumstances. He also testified when asked that the City is comfortable with Olsen returning to work, given the OK of his doctors, and noted that "Josh is an asset."

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. Olsen became unable to perform the full duties of a police officer in January, 2011 due to the increasing symptoms of his neurocardiogenic syncope.
3. The System's Medical Board noted the generally 'benign' nature of Olsen's condition, but concluded that he was unable to perform the full duties of his job at that time. The Medical Board noted that his medication regimen was not yet stable and that his changing shifts were related to his symptoms.
4. Olsen's medication regimen is now stable and his shifts are expected to be stable as well, due to the hiring of three new officers who are junior to him. He has been

symptom free for four months and has been working full-time for the police department in another position for three months. His treating physicians have opined that he is able to return to work with no restrictions.

5. Olsen is no longer disabled, and his disability was not "permanent" since it lasted less than 12 months.

DECISION

The appeal filed by Joshua B. Olsen is hereby granted, and the application for an ordinary disability pension filed on his behalf is hereby denied. Olsen shall be restored to active service in the position he last held with the Department.

Dated this 17 day of November, 2011.


_____, Chair
Disability Appeals Committee

Copies to:

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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, 2011.

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

Signature 