

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

IN THE MATTER OF:

DANIEL DEFENBAUGH,

Applicant.

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DECISION

Iowa Code § 411.6(3) (2013) and
Iowa Code § 411.6(5) (2013)

STATEMENT OF THE CASE

Daniel Defenbaugh (“Defenbaugh”) filed his application for a disability pension on or about September 26, 2014. On October 3, 2014, the System denied the application on the basis that Defenbaugh was not a member in good standing at the time of his application. Defenbaugh filed a timely appeal challenging the denial. A hearing was held before the Disability Appeals Committee of the Board (comprised of Scott Sanders, Mary Bilden (who appeared by telephone) and Marty Pottebaum, chair) on January 7, 2015 at the offices of the System. Defenbaugh appeared and was represented by attorney Jay Smith. Thomas Hays, union representative, was in attendance but did not testify. The City of Indianola did not appear. Daniel Cassady, Deputy Director, appeared on behalf of the System. Alice Helle was present as counsel to the Committee. Testimony was received from Defenbaugh. Post-hearing briefs were waived.

FINDINGS OF FACT

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

1. Defenbaugh was born on June 13, 1979 and commenced service as a police officer for the City of Indianola in March of 2000.
2. Defenbaugh testified that he started having an irregular heartbeat in in 2009 and soon developed a high pulse rate, high blood pressure and shortness of breath. He notified the then-chief of his health issues at that time. He testified that he often had to go in late or leave early, and sometimes couldn’t go to work at all due to these health issues.
3. He testified that his condition got much worse in 2011. He discussed with the city the possibility of filing for a disability pension at that time, but testified that he was “bull-

headed” and kept working because he thought he could overcome his health problems.

4. Defenbaugh testified that he finally filed for disability and stopped working in September of 2014, because his time between feeling fine and suddenly being “on the ground” or transported in an ambulance was getting shorter and shorter and his hospital stays were getting longer.
5. Defenbaugh testified that he was not being disciplined by the department at the time he filed his application. The record included his annual performance reviews, which consistently ranked him as well above average. He was named police officer of the year for Indianola in about 2004. .
6. Despite the lack of disciplinary action, the Acting Chief, Brian Sher, certified on Defenbaugh’s disability application that he was not a member in good standing. He included a letter dated September 26, 2014 in which he noted that most of Defenbaugh’s 14 plus years with the department and been “good, productive years.” The Chief then described the onset of health problems beginning in 2009 that affected Defenbaugh’s work and noted that they were “serious heart related issues.” As a result he missed a lot of work, and there was a concern about safety and liability issues since there was “usually no warning when he was about to have an episode.” The Chief commented that due to “the combination of Dan’s serious heart problems and Dan missing numerous days of work, his performance as a police officer has fallen off.” The letter addressed the “good standing” issue as follows:

Dan’s heart problems, his numerous trips to the hospitals, emergency rooms, and doctors, and his poor work attendance caused financial hardship for Dan, which caused him to fall behind on payments on several financial obligations that he had taken out. Due to Dan not being able to meet his financial obligations, he is not in good standing at the police department or with the City of Indianola.
7. Defenbaugh acknowledged that he has experienced financial difficulties as a result of his health problems due to both medical bills and loss of overtime. He received earned sick pay or comp time for his lost regular time. His wages were garnished for an obligation that has now been paid in full, but he was not disciplined by the department for financial or other reasons.

CONCLUSIONS OF LAW

1. Iowa Code § 411.1(14) states:

14. “*Member in good standing*” means a member in service who is not subject to removal by the employing city of the member pursuant to section 400.18 or 400.19, or other comparable process, and who is not the subject of an investigation that could lead to such removal. Except as specifically provided pursuant to section 411.9, a person who is restored to

active service for purposes of applying for a pension under this chapter is not a member in good standing.

2. Iowa Code § 411.6(3) states:

3. Ordinary disability retirement benefit. Upon application to the system, of a member in good standing 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. *The member-in-good-standing requirement of this subsection may be waived for good cause as determined by the board. The burden of establishing good cause is on the member.*

3. 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 good standing or of the chief of the police or fire departments, respectively, any member in good standing 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 medical condition shall be deemed to have been known to exist on the date that membership commenced if the medical condition is reflected in any record or document completed or obtained in accordance with the system's medical protocols pursuant to section 400.8, or in any other record or

document obtained pursuant to an application for disability benefits from the system, if such record or document existed prior to the date 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.

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d. The requirement that a member be in good standing to apply for and receive a benefit under this subsection may be waived for good cause as determined by the board. The burden of establishing good cause is on the member.

4. The City of Indianola did not appear and offered no evidence subsequent to the cited September 26, 2014 letter. Although the letter states that Defenbaugh is not in good standing, there is no evidence that he was subject to removal by the City or that he was the subject of an investigation that could lead to his removal. Furthermore, the performance and financial issues cited are attributed to his heart condition, not to any personal shortcomings or misconduct, and, as such, do not appear to provide a basis for removal. The City's certification that Defenbaugh was not in good standing at the time of his application was erroneous.
5. Even if the City's certification is accepted as correct, there is good cause to waive the member-in-good-standing requirement in this case.

DECISION

The appeal is hereby granted. The System shall adjudicate Defenbaugh's application for a disability pension.

Dated this 8 day of January, 2015.

, 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 12 day of January, 2015.

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

Signature

