

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

IN THE MATTER OF:

JEFFREY SCOTT JOCHUM,

Applicant.

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DECISION

Iowa Code § 411.6(3) (2015) and
Iowa Code § 411.6(5) (2015)

STATEMENT OF THE CASE

Jeffrey Scott Jochum ("Jochum") filed his application for an accidental disability pension on or about August 8, 2016. On October 31, 2016, the Medical Board of the University of Iowa Hospitals and Clinics reported its findings to the System regarding Jochum's disability. An initial decision awarding an ordinary disability pension was made by the System on December 1, 2016. Jochum filed a timely appeal challenging the award of an ordinary rather than accidental disability pension. A hearing was held before the Disability Appeals Committee of the Board (comprised of Mary Bilden, Frank Guihan, and Duane Pitcher, chair) on February 22, 2017 at the offices of the System. Jochum appeared, and was represented by attorney Jay M. Smith. Attorney Connie E. Anstey appeared for the City of Sioux City. Daniel Cassady, Deputy Director, appeared on behalf of the System. Alice Helle was present as counsel to the Committee. Testimony was received from Jochum, Sioux City firefighters Al Kinzie and Leonard Kraker testified for Jochum. Fire Chief Tom Everett and Assistant Chief Scott Wilson testified for the City. City Exhibits 1 through 4 were received without objections, as was Member Exhibit 1. Both parties filed post-hearing briefs.

FINDINGS OF FACT

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

1. Jeffrey Scott Jochum was born on June 5, 1977 and commenced service as a firefighter for the City of Sioux City on September 15, 2003.
2. On October 31, 2016, the System's Medical Board opined that Jochum is mentally incapacitated from the performance of the functional demands of his position as a firefighter as a result of PTSD (post-traumatic stress disorder) and substance abuse (alcohol use disorder) and that the incapacity is likely to be permanent. Dr. Kathryn Kenney, who provided the psychiatric general diagnostic note for the Medical

Board, opined that Jochum's mental illness is disabling, and that the disability would still exist absent his alcoholism.

3. It is undisputed that Jochum is permanently incapacitated from the performance of his duties as a firefighter. The issue is whether he is entitled to an ordinary or accidental disability pension from the System.
4. Jochum pointed to traumatic incidents on the job as the cause of his PTSD, including the following:
 - (a) A 2008 call to the scene of a residential structure fire. The fire was small and quickly extinguished, but two children were found dead inside. He saw them outside the home when CPR was being performed by other responders. He later learned that the children had been murdered and the fire was a cover-up.
 - (b) Also in 2008, he was called out as a specialist for an "ice rescue" at the scene of a vehicle accident. He rescued a woman who had been ejected from the vehicle and was on the frozen river 10 or 15 yards from shore. She was incoherent and couldn't tell him whether there had been anyone else in the vehicle. Police on the scene found the other two occupants of the vehicle down river deceased. He later learned that the woman he had rescued committed suicide by stepping in front of a train.
 - (c) In 2009, he was called to a residence regarding a possible drowning. The victim was a child who was approximately 10 months old and had been left unsupervised in the bathtub. When he arrived, a police officer was doing CPR. Jochum "bagged" the child and took over doing CPR on the child, who did not survive. Jochum testified that this was the first time he had to do CPR on a child.
5. Jochum testified to nightmares and flashbacks about these and other traumatic work incidents. He also testified to significant sleep difficulties and increased alcohol consumption as his symptoms worsened.
6. Under cross-examination by the City, Jochum testified regarding stressful personal issues including his divorce, loss of custody of his children and the death of his mother.
7. Jochum underwent in-patient treatment for alcoholism at Keystone Treatment Center in South Dakota in from February 3, 2014 to March 5, 2014 and at Destination Hope in Florida from November 14, 2014 to December 15, 2014. Records from Destination Hope mention Jochum's depression, anxiety and possible PTSD.
8. Jochum was first diagnosed with PTSD on January 25, 2016 by Denise Marandola, a licensed psychologist. She recommended in-patient treatment for his PTSD and consultation with a psychiatrist who could prescribe medication. Jochum has not

received in-patient care for his PTSD, but has been treated on an out-patient basis with medication and counseling

9. Al Kinzie, as Sioux City firefighter, testified that he was at the scene of the fire where the two children had been murdered and that it was the only fire he's been to in his 20 years with the department that was the scene of a possible homicide. It was definitely not a day-to-day occurrence. He testified that he had performed CPR on small children who died, but those were SIDS related – no drownings. He also testified that he never had reason to suspect Jochum of alcohol abuse.
10. Leonard Kraker testified that he has been a member of the fire department since 1992. He heard about the homicide incident but wasn't on duty. He further testified that he has never had to perform CPR on a child who was less than a year old and that the only ice rescue he was aware of was the one that Jochum was involved in.
11. Chief Tom Everett testified on behalf of the City. He has been a member of the department since 1993 and has been chief for almost 8 years. Upon questioning by the City attorney, he testified that he would not consider any of the events Jochum described to be unusually stressful for firefighting.
12. Assistant Chief Robert Wilson testified that he has been a firefighter for more than 30 years. He concurred with the Chief's opinion that the cited incidents were not unusually stressful. He further testified that he was on the scene of the fire scene/homicide as incident commander. He testified that he spoke to the mother of the deceased children, who was "hysterical," and also spoke to the step-father, who was later convicted of the murders.

CONCLUSIONS OF LAW

1. 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.

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 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.

3. An accidental disability pension is payable under chapter 411 for a mental injury only if (1) the mental injury was caused by mental stimuli in the workplace environment at some definite time and place, and (2) the traumatic incident that caused the injury constitutes workplace stress of greater magnitude than the day-to-day stresses experienced by other police officers (or firefighters). See *Moon v. MFPRSI*, 548 N.W.2d 565 (Iowa 1996) and *City of Cedar Rapids v. MFPRSI*, 572 N.W.2d 919 (Iowa 1998).
4. Although Jochum's personal problems, including his divorce and the death of his mother, likely contributed to his depression and alcohol abuse, the record supports a conclusion that his PTSD was caused by traumatic incidents he experienced while working as a firefighter. The issue thus becomes whether those incidents constitute workplace stress of greater magnitude than the day-to-day (not daily) stresses experienced by other firefighters.

5. The incidents described by Jochum were clearly stressful and would constitute workplace stress of greater magnitude than the day-to-day stresses experienced by workers in most professions. Work as a firefighter is inherently dangerous and stressful, however. The issue is not whether the cited incidents were unusual, but whether they constitute workplace stress of greater magnitude than the day-to-day stresses experienced by other firefighters. The Committee finds that the incidents in question were not unusually stressful for firefighting.

DECISION

The appeal for a disability pension on behalf of Jeffrey Scott Jochum under chapter 411 is hereby denied. He will continue to receive an ordinary disability pension.

Dated this 6th day of April, 2017.

 _____, 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 7 day of April, 2017.

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

Signature _____

