

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

IN THE MATTER OF:

MARTIN MOORE,

Applicant.

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DECISION

Iowa Code § 411.6(3) (2017) and
Iowa Code § 411.6(5) (2017)

STATEMENT OF THE CASE

The Chief of the Council Bluffs Fire Department filed an application for an accidental disability pension on behalf of Martin Moore (“Moore”) on or about September 14, 2016. On November 4, 2016, the Medical Board of the University of Iowa Hospitals and Clinics reported its findings to the System regarding Moore’s disability. An initial decision awarding an ordinary disability pension was made by the System on December 1, 2016. Moore 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 June Anne Gaeta, Frank Guihan, and Duane Pitcher, chair) on June 28, 2017 at the offices of the System. Moore appeared, and was represented by attorney Jay Smith. Attorney Bryan Hatch appeared for the City of Council Bluffs. Daniel Cassady, Deputy Director, appeared on behalf of the System. Alice Helle was present as counsel to the Committee. Testimony for the member was received from Martin Moore, John Sauser, a Council Bluffs firefighter, and Leigh Moore, Martin Moore’s wife. Council Bluffs Assistant Fire Chief James Wheat and Chief Justin James testified for the City of Council Bluffs. Both parties filed post-hearing briefs.

FINDINGS OF FACT

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

1. Martin Moore was born on August 31, 1975 and commenced service as a firefighter for the City of Council Bluffs on March 22, 1999.
2. Moore’s last working day on the job was April 15, 2016.
3. On November 4, 2016, the System’s Medical Board opined that Moore is mentally incapacitated from the performance of his full duties as a firefighter as a result of his

post-traumatic stress disorder (“PTSD”), and that his incapacity is likely to be permanent (of at least one year’s duration).

4. During the comment period, the Human Resources Director of the City of Council Bluffs submitted additional evidence with a letter dated November 23, 2016, questioning both Moore’s veracity and the medical board’s determination that he was disabled as a result of PTSD.
5. In an email dated November 30, 2016, Steven Rippentrop, M.D. of the Medical Board confirmed that he had reviewed the new information provided by the City and that it was still his opinion, to a reasonable degree of medical certainty, that Moore is unable to perform the duties of a firefighter due to PTSD. He also commented that he did not think that Moore was malingering. Dr. Del Miller of the Medical Board emailed separately, expressing agreement with Dr. Rippentrop’s opinion.
6. The System issued its decision awarding an ordinary disability pension to Moore on December 1, 2016. Moore’s timely appeal was received by the System on December 28, 2016. The City did not appeal the award, and the only issue on appeal is whether Moore is entitled to an ordinary or accidental disability pension.
7. The incident at issue in this appeal is a house fire that occurred on March 23, 2016. At approximately 3:00 p.m. that day, Engine 21 was the first on the scene of the fire. Engine 21 was staffed by Captain Moore, Firefighter Laura Roberts (“Roberts”) and an engineer. Moore observed heavy smoke on one side of the building and radioed “we’ll be fast attack.” He and Roberts then entered the building, with Moore entering first and Roberts following, which was undisputedly contrary to protocol. Other units arrived shortly after Engine 21. Another unit broke the sliding glass door at the back of the structure, introducing more oxygen to the fire. Moore testified that he saw a curtain of black smoke” coming down and made the decision to exit the building. He and Roberts had not yet determined the source of the fire. He testified that he then fell onto his back and lost contact with Roberts. He testified that he thought they were both going to die. He then got to his feet and made a mayday call. The call was made a minute and thirty-nine seconds after the breaking of the sliding glass door. He was eventually able to exit through the broken glass door and yelled to the other firefighters on the scene that Roberts was still inside. He then learned that she had escaped by breaking a window with her helmet and exiting through the broken window. Moore and Roberts were inside the structure for approximately five minutes.
8. A debriefing regarding the March 23 fire was held on March 25, 2016. It was determined that numerous mistakes were made by Moore and also by others at the scene, and Moore was assigned to remedial training.
9. Moore described becoming extremely emotional and depressed and “wanting to be away from everyone” the Saturday after the fire while at the home of his in-laws. His wife, Leigh Moore, testified that he put on headphones and separated from everyone, which wasn’t like him. She further testified that he was outgoing and the “guy to go

to” prior to the March 23 fire and told her and anyone who would listen how much he loved being a firefighter. She testified that his demeanor changed after the incident and that he became withdrawn and very “needy and clingy.” She testified that she works as a pharmacist and that she and Martin have been married for 18 years.

10. Moore sought counseling shortly thereafter. On April 14, 2016, he was demoted to Engineer. He did not return to work thereafter, however, and was diagnosed with PTSD in April or May of 2016.

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 the traumatic incident that caused the injury constitutes workplace stress of greater magnitude than the day-to-day stresses experienced by other firefighters (or police officers). *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. It is undisputed that Moore is incapacitated from the performance of his duties as a firefighter as a result of his Post-Traumatic Stress Disorder and that his incapacity is likely to be permanent. It was also undisputed that his PTSD is the result of the March 23, 2016 fire incident.
5. The sole issue in this appeal is whether the cited incident constituted workplace stress of greater magnitude than the day-to-day (not daily) stresses experienced by other firefighters.
6. There was much testimony and argument regarding the nature of the fire in question. It is undisputed that this was the only known "mayday" at the Council Bluffs Fire Department. The City argued that there were other situations that "probably should have been" maydays, including other situations where firefighters had to "self-evacuate." Chief James, in his testimony, described the fire as "a basic house fire" and "firefighting 101." He further testified that it was "a single compartment fire in a single room that had just slightly progressed into the closet area of the next room" and referred to it as a "cookie cutter house fire." Moore, on the other hand, testified that he was in fear that he and Roberts were going to die, and that he had never felt that way in any other fire.
7. Moore argues in his brief:

[I]f the house fire on March 23, 2016 was a typical fire, the end result would be that he would not have PTSD. Indeed, if the incident in question did not place greater stress on Mr. Moore than typically experienced by

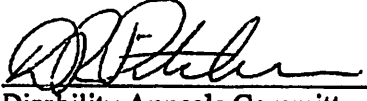
firefighters, Mr. Moore would not have suffered the injury, which caused his PTSD.

8. That argument, however, essentially amounts to a presumption that PTSD is caused by workplace stress of greater magnitude than the day-to-day stresses experienced by other firefighters. There is no such presumption under the statute. Furthermore, the "unusual stress" standard under chapter 411 is objective (based on the nature of the incident) rather than subjective (based on its effect on the member). *See generally Moon v. MFPRSI and City of Cedar Rapids v. MFPRSI.*
9. The March 23, 2016 house fire was clearly stressful and would constitute workplace stress of greater magnitude than the day-to-day stresses experienced by workers in most professions. Firefighting is inherently dangerous and stressful, however. The Committee finds that the incident in question was not unusually stressful for firefighting.

DECISION

The appeal for an accidental disability pension on behalf of Martin Moore under chapter 411 is hereby denied. The award of an ordinary disability pension is affirmed.

Dated this 24th day of August, 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 25th day of August, 2017.

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

Signature Kathleen Ingle, MFPRSI

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