

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

IN THE MATTER OF:

ROBERT LEWIS STANTON, SR.,

Applicant.

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DECISION

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

STATEMENT OF THE CASE

Robert Lewis Stanton, Sr. (“Stanton”) filed his application for an accidental disability pension on or about April 4, 2017. On June 21, 2017, the Medical Board of the University of Iowa Hospitals and Clinics reported its findings to the System regarding Stanton’s disability. An initial decision awarding an accidental disability pension for his right shoulder and both knees was made by the System on July 19, 2017. The City of Des Moines filed a timely appeal challenging the portion of the accidental disability award that was on the basis of bilateral knees. A hearing was held before the Disability Appeals Committee of the Board (comprised of Kay Cmelik, Frank Guihan, and Mary Bilden, chair) on November 15, 2017 at the offices of the System. Stanton appeared, and represented himself. Attorneys Larry Dempsey and Shellie Mackel appeared for the City of Des Moines. Daniel Cassady, Deputy Director, appeared on behalf of the System. Alice Helle was present as counsel to the Committee. Live testimony was received from Stanton. Deposition testimony was received from Frederic Gerr, M.D. Both parties waived post-hearing briefs.

FINDINGS OF FACT

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

1. Robert Lewis Stanton, Sr. was born on December 7, 1953 and commenced employment with the City of Des Moines as a firefighter on or about November 22, 1982. He last day of work was January 22, 2017. His rank at the time was fire captain.
2. Stanton was injured while lifting a patient and was diagnosed with rotator cuff tendinopathy and bicipital tendon tendinopathy of the right shoulder. On January 23, 2017, he underwent a distal clavicle resection, acromioplasty and biceps tenotomy.

3. On April 4, 2017, Stanton applied for an accidental disability pension from the System based on “bilateral hands, knees and right shoulder.”
4. The Medical Board’s letter to the System dated June 21, 2017 stated:

Mr. Robert Stanton is a 63-year-old with a history of bilateral hands, bilateral knees and right shoulder injuries. In the opinion of Dr. Chen, he is unable to perform the full duties of a fire captain as a consequence of his bilateral knees and right shoulder injuries. In the opinion of Dr. Gerr, he is unable to perform the full duties of a fire captain as a consequence of his right shoulder injury only.

The medical board, after medical examination of the member, certifies that it is the opinion of the board that the member is physically incapacitated from performance of the functional demands of this position as described to the board by the System. Dr. Chen believes this incapacity is likely to be permanent based on the impression that it will be of at least one year’s duration. Dr. Gerr recommends reevaluation in 12 months’ time.

5. It is undisputed that Stanton is entitled to an accidental disability pension based on his right shoulder injury, and that he is not entitled to disability for his hands. It is also undisputed that Stanton’s knee injuries were incurred in the performance of duty. The only issue before the Committee is whether Stanton is incapacitated from the performance of duty on the basis of his knee injuries.
6. Stanton injured his right knee in 1990. He was walking down a flight of stairs when his self-contained air tank slipped out of its bracket causing him to lose his balance. He twisted his knee and felt it pop. He subsequently underwent a right medial meniscectomy (removal of part of the meniscus) with arthroscopic debridement of the medial meniscus. He recovered well from the surgery following physical therapy and was able to return to work without limitations.
7. Stanton injured his left knee in on July 26, 2009. He was asleep at the fire station when the alarm went off. He jumped out of bed and tripped over a chair, twisting his knee. He was treated conservatively with physical therapy for several months. He eventually had a left knee arthroscopy on December 4, 2009. His surgeon, Scott Neff, noted in a letter dated December 30, 2009 to Dr. John Heffernan, that Stanton had “severe patellofemoral changes in both knees.” He further noted that Stanton “knows that both of his knees are wearing out; and he needs to be careful to avoid slips and falls on the ice, slips on the stairs, and so forth.”
8. Dr. Joseph Chen is one of the Medical Board doctors who evaluated Stanton. He is a Clinical Associate Professor in the Department of Orthopaedics & Rehabilitation at the University of Iowa Hospitals and Clinics. In opining that Stanton is unable to perform the regular duties of a firefighter due to both his right shoulder and bilateral knee injuries, he commented, “His chronic knee pain also limit[s] his ability to perform ladder locking maneuvers, climbing, crawling or squatting.”

9. Dr. Fredric Gerr is the other Medical Board doctor who evaluated Stanton. He is a Professor of Occupational Medicine at the University of Iowa Hospitals and Clinics. Dr. Gerr testified via deposition that, at the time he examined Stanton, he was reporting “extremely mild knee discomfort” and no changes in his activities of daily living relating to his knees. He noted that the only change to his work that Stanton reported was that he got in and out of the fire truck more slowly than before. He noted that Stanton was taking ibuprofen for his shoulder pain, so that it was hard to get a sense of whether he would have needed pain medication for his knee pain alone. He confirmed his opinion, as set forth in the Medical Board letter dated June 21, 2017, that Stanton was able to perform all of the duties of a firefighter with regard to the pain of his left and right knees.
10. Stanton testified that it hurts his knees to ride a bicycle and to walk fast. He has difficulty getting up off of the floor. He noted that firefighting frequently requires crawling on one’s knees, which is very difficult for him to do.

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

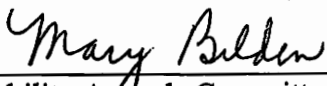
duty as the natural and proximate result of an injury or disease incurred in or aggravated by the actual performance of duty at some definite time and place, or while acting pursuant to order, outside of the city by which the member is regularly employed, shall be retired by the system if the medical 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. As noted above, it is undisputed that Stanton is incapacitated from the performance of his duties as a firefighter as a result of his right shoulder injury. The sole issue in this appeal is whether his right and left knee injuries are also incapacitating.
4. This appeal involves a difference in opinion between two evaluating physicians. In evaluating those opinions, the Committee has considered the reports of Stanton's treating physicians, the nature of his duties as a firefighter, Stanton's testimony regarding his limitations, and the medical specialties of Dr. Gerr and Dr. Chen.
5. Based on the weight of the evidence, the Committee concludes that Stanton is incapacitated from the performance of duty as a result of the injuries to both knees, in addition to the injury to his right shoulder.

DECISION

The City's appeal of the System's award of an accidental disability pension to Robert Lewis Stanton, Sr. on the basis of bilateral knees is denied. The System's initial award of an accidental disability pension under Iowa Code chapter 411 is hereby affirmed.

Dated this 16th day of November, 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 _____ day of _____, 2024.

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

Signature _____