

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

IN THE MATTER OF:

JUSTIN CROWDIS,

Applicant.

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DECISION

Iowa Code § 411.6(3) (2018) and
Iowa Code § 411.6(5) (2018)

STATEMENT OF THE CASE

Justin Crowdis ("Crowdis") submitted his application for an ordinary disability pension on or about July 7, 2017. (System Exhibit ("Ex.") 1). On August 28, 2017, the Medical Board of the University of Iowa Hospitals and Clinics reported its findings to the System regarding Crowdis's disability. (Ex. 5) An initial decision awarding an ordinary disability pension was made by the System on September 13, 2017. (Ex. 6). The System based its decision to award the ordinary disability pension for Member's low back pain condition based upon the medical records of Drs. Yankey, Troll and Nelson, the report of the Medical Board at the University of Iowa Hospitals and the information submitted by the Member and the City. Crowdis filed a timely appeal, averring that he was instead entitled to an accidental disability pension, rather than an ordinary disability pension. (Ex. 7). A hearing was held before the Disability Appeals Committee of the Board (comprised of Marty Pottebaum, Mary Bilden and Duane Pitcher) on February 21, 2018, at the offices of the System. Crowdis appeared and was represented by attorney Mark Hedberg. The City of Des Moines appeared and was represented by attorney Lawrence Dempsey. Des Moines Police Department Major Steve Waymire was also present. Daniel Cassady, deputy director appeared on behalf of the System. Elizabeth Coonan was present as counsel to the Committee. Live testimony was received from Justin Crowdis. The parties declined to file briefs.

FINDINGS OF FACT

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

1. Crowdis commenced service as a police officer for the City of Des Moines on or about July 19, 2004. He rose to the rank of Senior Police Officer.

2. He began to experience low back pain on or about January 28 or 29, 2008, when he was exiting his squad car in the Des Moines Police Department parking lot located at 25 E. 1st Street, Des Moines, Iowa. He reported feeling a pinching sensation in his left hip.
3. He reported the low back injury to the City and completed an incident report. He was sent for treatment and was diagnosed with a herniated disc.
4. Over the course of the next several years, Crowdis continued to seek treatment and/or took medications for low back pain.
5. Crowdis applied for an ordinary disability pension on or about July 7, 2017.
6. Crowdis was a certified a member in good standing by Des Moines Police Department's Chief Wingert at the time he submitted his application for an ordinary disability pension.

7. On August 28, 2017, the System's medical board opined:

Mr. Justin Crowdis is a 37-year-old with a history of lower back injury. In the opinions of the evaluating physicians he is unable to perform the full duties of a police officer as a consequence of his lower back pain. 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. This incapacity is likely to be permanent based on the impression that will be of at least one year's duration.

8. On September 13, 2017, the System awarded Crowdis with an ordinary disability pension due to low back pain.
9. Crowdis filed an appeal on September 28, 2017, challenging the award of an ordinary, rather than accidental, disability pension.
10. On December 28, 2017, Dr. Sunil Bansal conducted an independent medical examination wherein he concluded:

The [above] mechanism of bending and twisting that occurred on or about January 28 or January 29, 2008, coupled with his immediate clinical presentation, is consistent with his acute L4-L5 disc herniation. Since that period of time, Mr. Crowdis has had symptoms related to that herniation, including left-sided leg pain, numbness and weakness. He has had maintenance and palliative treatment during this time period, but unfortunately the treatment did not reduce his symptoms. He has continued to the point that he is no longer able to perform the essential functions of a police officer. As a Board Certified Occupational Medicine Physician, it is my opinion that on a permanent basis, Mr. Crowdis does not meet the physical requirements to continue as a police officer. It is also

my opinion that his current physical state as relates to his lower back is a result of the injury on or about January 28 or January 29, 2008.

11. At the February 21, 2018 hearing, Crowdis testified that when completing the initial application, he accidentally checked the "ordinary disability" box on page two of the application form. (Exhibit 1-2). He testified that at the time he filled out the application, he mistakenly believed the word "accidental" was referring to an accident occurring at home.
12. Crowdis testified that the City awarded Crowdis "J time" and paid for all medical expenses associated with his January 28 or 29, 2008 low back injury. He also testified that the City continued to treat his injury as work-related, providing him with care that included physical therapy, epidural steroid injections and medications throughout the course of his care which spanned approximately nine (9) years. The City did not dispute the same.

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 in good standing 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 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. 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. It is undisputed that Crowdis is a member in good standing, is incapacitated from the performance of duty, and that the incapacity is likely to be permanent (i.e., is likely to be of at least 12 months duration, in accordance with the System's administrative rules). He is therefore entitled to a disability pension from the System. Thus the issue before this Committee is whether Mr. Crowdis is entitled to an ordinary or accidental disability pension.
4. A disabled member is entitled to an accidental disability pension under § 411.6(5) if his disability is "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."
5. Section 411.6(5)(a) can essentially be broken down into the following three elements: 1) a total and permanent incapacitation for duty caused by an injury; 2) the disabling injury occurred in the actual performance of duty; and 3) the

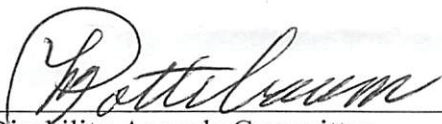
injury occurred at some definite time and place. Branson v. Municipal Fire and Police Retirement System of Iowa, 591 N.W.2d 193, 197 (Iowa 1999).

6. Crowdis claims an injury occurring on January 28 or January 29, 2008 to his low back. The greater weight of the credible evidence from the Medical Board and Dr. Sunil Bansal establishes that Crowdis's low back pain is causally related to the 2008 job accident, it has caused him a total and permanent incapacitation for duty and resulted from the actual performance of duty and occurred at a definite time and place.
7. Because Crowdis's incapacity for duty is the result of his job-related low back condition, he is entitled to an accidental disability pension from the System.

DECISION

The appeal for accidental disability benefits on behalf of Justin Crowdis is hereby granted. The System's initial award of an ordinary disability pension under Iowa Code chapter 411 is hereby reversed. The Member shall receive an accidental disability pension.

Dated this 22 day of February, 2018.


_____, Chair
Disability Appeals Committee

Copies to:

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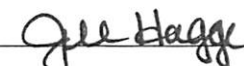
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CERTIFICATE OF SERVICE

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 23 day of February, 2018

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

Signature 

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