

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

IN THE MATTER OF:

JANET MARTIN,

Applicant.

DECISION

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

STATEMENT OF THE CASE

Janet Martin's ("Martin") application for an accidental disability pension was filed by the Chief of Police for the City of Davenport on or about July 17, 2019. On October 4, 2019, the Medical Board of the University of Iowa Hospitals and Clinics reported its findings to the Municipal Fire and Police Retirement System of Iowa (the "System") regarding Martin's disability. An initial decision denying Martin's application for disability was made by the System on November 7, 2019 on the grounds that the Medical Board concluded a return to service was possible within twelve (12) months. On December 7, 2019, Martin timely filed an appeal challenging the denial of her application for an accidental disability pension. Charles Gribble and Christopher Stewart filed an appearance on behalf of Martin on December 11, 2019. A hearing was held before the Disability Appeals Committee of the Board (comprised of Eric Hartman, Duane Pitcher, and Mary Bilden) on February 26, 2020 at the offices of the System. Duane Pitcher served as Chair. Martin appeared, and was represented by attorneys Charles Gribble and Christopher Stewart. Jim Forsyth, Mallory Merritt, and Amanda Benning appeared on behalf of the City of Davenport via telephone. Daniel Cassady, Deputy Director, appeared on behalf of the System. Cynthia Boyle Lande was present as counsel to the Committee. Martin was the only witness to testify. Charles Gribble and Christopher Stewart presented evidence on behalf of Martin. Mallory Merritt provided clarification, on behalf of the City of Davenport, of evidence presented by Gribble and Stewart.

FINDINGS OF FACT

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

1. Janet Martin was born on February 27, 1965. She commenced service as a police officer for the City of Davenport on June 7, 2004. At the time Martin's application for an accidental disability pension was filed, Martin was serving as a Sergeant with the Davenport Police Department. Martin had served in that position since 2017. The job

duties associated with the position of Sergeant for the Davenport Police Department include supervising other officers during an assigned shift, various office and field duties, and responding to calls when other officers are unavailable during a shift.

2. In the fall of 2014, Martin was promoted to the position of corporal with the Davenport Police Department. Shortly thereafter, Martin began experiencing episodes of dizziness, chest pain and pressure, racing heart, and difficulty breathing. Martin's family physician, Dr. McLaughlin, diagnosed her with arrhythmia (supraventricular tachycardia) and atrial fibrillation. Martin was referred to Dr. Brewer, a cardiologist. Martin was also prescribed metoprolol. Martin testified that after a few weeks she discontinued metoprolol due to side effects.
3. On April 9, 2015, Martin had an unrelated scheduled medical procedure. During the procedure, Martin's heartbeat stopped, and the procedure could not be completed.
4. On May 29, 2015 Martin underwent tilt table testing conducted by Dr. Brewer. During the testing, Martin's heartbeat stopped for over 30 seconds, and she was diagnosed with neurocardiogenic syncope. Dr. Brewer recommended that Martin have a pacemaker installed.
5. On June 11, 2015, Martin had a pacemaker installed. Martin testified that after the procedure she was off work for a few weeks, completed a few additional weeks of light duty, and returned to normal work in August of 2015.
6. Martin testified that her pacemaker prevents her heartrate from dropping too low or stopping entirely, but her pacemaker does not prevent or correct sustained periods of irregular heartbeat. Martin testified that these periods of irregular heartbeat cause her to become dizzy and lightheaded as well as tightness of chest and a racing heartbeat. Martin further testified that from 2017 through 2019 the frequency and duration of these periods increased.
7. On October 4, 2019, Dr. Fredric Gerr of the Medical Board opined Martin is physically incapacitated from the performance of her duties as a police officer as a result of her supraventricular tachycardia, but recovery sufficient to allow for unrestricted return to duty is possible in the next 12 months. Dr. Gerr also opined that that Martin's neurocardiogenic shock and sick sinus syndrome do not prevent her from being fully able to perform all law enforcement duties. Dr. Gerr found no evidence of atrial fibrillation in his evaluation of Martin.
8. Martin was also evaluated by Dr. Christopher Benson of the Medical Board. In the October 4, 2019 report, Dr. Benson indicated he was unable to fully determine whether Martin is disabled and unable to perform her work duties. Martin indicated a cardiology electrophysiologist may be able to provide a more informed opinion.
9. On December 12, 2019, Martin was evaluated by Dr. Steven Bailin. Dr. Bailin is a cardiac electrophysiologist with the University of Iowa Hospitals and Clinics. Dr.

Bailin concluded that Martin's heart condition was unlikely to improve spontaneously within twelve months.

10. Martin testified that her heart condition continues without improvement. Martin is currently on injury leave while her appeal is pending.
11. The American College of Occupational and Environmental Medicine (ACOEM) has issued guidelines for the medical evaluation of law enforcement officers, including guidelines for evaluating law enforcement officers with heart conditions. Section 4.7.4.5.2.4 of the guidelines recommends additional testing and job restrictions for law enforcement officers with episodes of supraventricular tachycardia lasting more than 10 seconds. The City of Davenport follows the ACOEM guidelines. Dr. Bailin also followed the guidelines, and specifically the 10-second threshold, to conclude that Martin is disabled because she has had multiple episodes of supraventricular tachycardia lasting more than 10 seconds.
12. The City of Davenport appeared at the hearing only for the purpose of confirming testimony and evidence presented by Martin and to express the City's strong support for Martin's application. The City offered opening and closing statements indicating agreement with Martin's application and provided clarification of evidence introduced on behalf of Martin relating to the City's use of the ACOEM guidelines. The City did not present any of its own evidence or question any of its own witnesses.

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. Iowa Code §411.6(5)(c)(1) provides that "Disease under this subsection shall mean heart disease or any disease of the lungs or respiratory tract and shall be presumed to have been contracted while on active duty as a result of strain or the inhalation of noxious fumes, poison, or gases. (2) Disease under this subsection shall also mean cancer or infectious disease and shall be presumed to have been contracted while on active duty as a result of that duty. (3) However, if a person's membership in the system first commenced on or after July 1, 1992, and the heart disease, disease of the lungs or respiratory tract, cancer, or infectious disease would not exist, but for a medical condition that was known to exist on the date that membership commenced, the presumption established in this paragraph "c" shall not apply."

4. Section 9.2(3) of the System's Administrative Rules states:

a. A "permanent" disability is a disability, as defined in the statute, which is expected to result in death or which has lasted, or can be expected to last, for a continuous period of not less than twelve months.

b. A "temporary" disability is a disability, as defined in the statute, which is not expected to be permanent, as defined in a, above.

5. The sole issue in this appeal is whether Martin's disability is "permanent" as defined in the System's Administrative Rules. Dr. Gerr of the Medical Board concluded that Martin is disabled and not able to fully perform the duties of her job. If Martin's disability is permanent, she is entitled to an accidental disability pension under the heart-lung presumption.
6. Martin presented testimony from Dr. Bailin that her condition is unlikely to improve within the next twelve months. The City of Davenport did not present any contrary evidence. The City also did not present any evidence rebutting the presumption that Martin's heart condition is related to her work as a police officer. As of the date of the hearing, Martin's heart conditions had not improved. Accordingly, the Committee agrees Martin is permanently disabled and entitled to an accidental disability pension under the heart-lung presumption.

DECISION

The appeal for an accidental disability pension on behalf of Janet Martin under chapter 411 is hereby granted. Martin is hereby awarded an accidental disability retirement.

Dated this 27th day of February, 2020.



Duane Pitcher, 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 28 day of February, 2020.

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

Signature

Julie Haggel