

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

IN THE MATTER OF:

ERIC COOK,

Applicant.

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DECISION

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

STATEMENT OF THE CASE

Eric Cook ("Cook") filed his application for an accidental disability pension on or about August 19, 2019. On November 5, 2019, the Medical Board of the University of Iowa Hospitals and Clinics reported to the System its findings regarding Cook's disability. The System made an initial decision awarding an ordinary disability pension on December 6, 2019. On January 3, 2020, Cook filed a timely appeal challenging the award of an ordinary, rather than accidental, disability pension. The Notice of Appeal was filed by attorney Charles Gribble. Mr. Gribble subsequently withdrew as counsel for Cook. A hearing was held before the Disability Appeals Committee of the Board (comprised of Mary Bilden, Duane Pitcher, and Frank Guihan) via Webex videoconferencing on May 7, 2020. Duane Pitcher served as Chair. Cook appeared and represented himself. The City of Cedar Rapids did not appear. Daniel Cassady, Deputy Director, appeared on behalf of the System. Cynthia Boyle Lande was present as counsel to the Committee. Testimony was received from Eric Cook. On May 12, 2020, Cook provided missing pages from an Exhibit he submitted previously.

FINDINGS OF FACT

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

1. Eric Cook was born on May 16, 1984. He commenced service as a firefighter for the City of Cedar Rapids on September 23, 2013. Prior to joining the fire department, Cook worked as a federal firefighter at the Rock Island arsenal. Cook previously did a tour of duty as a Marine deployed for Operation Iraqi Freedom.
2. Cook's last working day on the job was May 24, 2019. He was placed on leave and referred to the City's Employee Assistance Program (EAP).

3. On November 5, 2019, the System's Medical Board opined that Cook is physically and mentally incapacitated from performance of the full duties of a firefighter as a consequence of his PTSD and that his incapacity is likely to be permanent (of at least one year's duration).
4. The System issued a decision awarding an ordinary disability pension on December 6, 2019. Cook's appeal was timely filed with the System on January 3, 2020. The City of Cedar Rapids did not appeal the decision. The only issue on appeal is whether Cook is entitled to ordinary or accidental disability retirement benefits.
5. The incident at issue in this appeal occurred at a structure fire on January 4, 2019. When firefighters arrived, "an adult female was standing in the doorway yelling that she did not want to leave, that they were going to kill her." (MFPRSI Ex. 3.1) Cook testified that smoke was pouring out of the home around the woman at high velocity. The woman, who was the mother of the home owner, had intentionally started fires at multiple locations in the home. (MFPRSI Ex. 3.1, 3.3) It was later determined that she likely suffered from mental illness and no one was seeking to harm her. (MFPRSI Ex. 3.1-2) This was not immediately apparent to the first firefighters who arrived at the home and believed there could be a physical threat to the occupant and themselves.
6. Cook testified that, before entering the home, he and other firefighters could hear what appeared to be gun fire coming from within the residence. (See also, MFPRSI Ex. 3.14) He also testified that he was not confident appropriate safety checks were conducted prior to entering the home. Prior to entering the home, Cook had a difficult time catching his breath, and he testified that he felt uncertain and unsafe. After Cook and another firefighter entered the home, several rounds of ammunition continued to go off within the home. (MFPRSI Ex. 3.14)
7. When Cook entered the home, he could not see anything due to the thickness of the smoke. Throughout his time in the home, he continued to hear ammunition exploding. He feared he was being shot at and felt helpless because he could not see where the shooting was coming from. (MFPRSI Ex. 4B.2) Cook later reported to medical professionals that he did not remember significant portions of the event. (MFPRSI Ex. 5.8) He testified at the appeal hearing that he felt surrounded by fires on all sides and underneath him during the call due to multiple fires located in different parts of the residence. Cook testified that he was not debriefed following the incident.
8. Cook testified that he does not recall ever receiving training on responding to a fire with exploding ammunition. He further testified that the incident was his first call involving exploding ammunition, and he does not recall fellow firefighters ever describing a similar call.
9. Following the incident at the structure fire, Cook began experiencing increased symptoms associated with severe PTSD, anxiety, and depression. (MFPRSI Ex. 4.13) These symptoms include nightmares, panic attacks, difficulty sleeping, poor short-term memory, and fatigue. (MFPRSI Ex. 5.9, 4B.6, 4B.9). It has impacted his

interactions with others, including his spouse, and Cook has difficulty performing what were previously ordinary tasks. (MFPRSI Ex. 4.13) Cook testified that prior to this time he could perform the duties associated with the job of a firefighter without difficulty.

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. Thus, if the member meets the requirements for ordinary disability retirement benefits, the member must show that his incapacity 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 to qualify for an accidental disability benefit. See, Branson v. MFPRSI, 591 N.W.2d 193, 197 (Iowa 1999).
4. Iowa Code §411.6(5)(c) provides:
 - (1) 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.
5. 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).
6. On November 5, 2019, Drs. Miller and Hartley opined Cook is mentally incapacitated from the performance of his duties as a firefighter as a result of his PTSD and major depressive disorder, and that his incapacity is likely to be permanent based on the impression that it will be of at least one year's duration. (MRPRSI Ex. 5.6).
7. While it is undisputed that Cook suffers from PTSD and major depressive disorder, such conditions do not qualify as a disease under Iowa Code §411.6(5)(c)(1). As such, Cook cannot satisfy the requirement that his incapacity is the natural and

proximate result of a disease incurred in or aggravated by the actual performance of duty at some definite time and place. Instead, Cook must demonstrate that his incapacity is the natural and proximate result of an injury incurred in or aggravated by the actual performance of duty at some definite time and place.

8. 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 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). The injury must also occur at some definite time and place. *Id.* at. 923.
9. Therefore, the remaining 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.
10. The System has determined it will take the following factors into consideration in determining whether an incident involves workplace stress of greater magnitude than day-to-day stresses of other police officers or firefighters: (1) whether the incident(s) is something for which the member received training; (2) whether, with respect to the incident(s), the member's department or supervisor followed or deviated from standard protocols in the profession; (3) the member's degree of familiarity with a victim prior to the incident; (4) the culpability or innocence of the victim(s); and (5) whether the incident occurred in close proximity to other more stressful incidents. This list is not exclusive.
11. The City of Cedar Rapids does not conduct specific training on how firefighters should handle fires with ammunition present. (Ex. 3.8) Cook testified that he did not receive specific debriefing following the incident. (see also, MFPRSI Ex. 5.8) The incident did not occur in close temporal proximity to other more stressful events. The combination of a large residential fire with multiple sources, a victim claiming she was in physical danger, and exploding ammunition is not common.
12. The City did not appear and offered no evidence.
13. The committee agrees that the incident in question constituted workplace stress of greater magnitude than the day-to-day stresses experienced by other firefighters. Cook is therefore entitled to an accidental disability pension from the System.

DECISION

The appeal for an accidental disability pension on behalf of Eric Cook under chapter 411 is hereby granted.

Dated this 14th day of May, 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 15 day of May, 2020.

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

Signature

