

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

IN THE MATTER OF:

SHANNON SAMPSON,

Applicant.

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DECISION

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

STATEMENT OF THE CASE

Shannon Sampson (“Applicant”) filed her application for an accidental disability pension on or about June 15, 2021. On September 21, 2021, the Medical Board of the University of Iowa Hospitals and Clinics reported to the System its findings regarding Applicant’s disability. The System made an initial decision awarding an ordinary disability pension on October 12, 2021. On or about November 8, 2021, Applicant 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 Marty Pottebaum, Mary Bilden and Nickolas Schaul) on April 6, 2022, at the offices of the System. Marty Pottebaum served as Chair. Applicant appeared without legal counsel. Daniel Cassady, Director, appeared on behalf of the System. Danielle Smid was present as counsel to the Committee. Testimony was received from Applicant. Applicant waived the filing of a post-hearing brief.

FINDINGS OF FACT

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

1. Applicant was born on January 1, 1978. Ex. 1.1. She commenced service as a police officer for the City of Cedar Rapids on August 3, 1998. Ex. 1.5. At the time she filed her application for disability benefits, Applicant held the rank of Police Officer. Id. After her surgery, Applicant had also been assigned to light duty with the Cedar Rapids Police Department. Ex. 4D.89.
2. On September 21, 2021, the System’s Medical Board opined that Applicant is unable to perform the full duties of a police officer due to her spinal cord tumor and subsequent surgery. Ex. 5.6. The Medical Board further opined that the Applicant’s incapacity is likely to be permanent, based on the impression that it will last for a period of at least one year. Id.

3. The System issued a decision awarding an ordinary disability pension due to spinal cord tumor on October 12, 2021. Ex. 7.1 Applicant's appeal was timely filed with the System on November 8, 2021. Ex. 8.1. The City did not appeal the decision. The only issue on appeal is whether the Applicant's spinal cord tumor and subsequent surgery qualifies her for an accidental disability retirement rather than an ordinary disability retirement.
4. Applicant's medical records indicate she began seeking medical care for her spinal cord tumor in approximately April of 2018. Ex. 4B.1. Her symptoms included three months of numbness and tingling in the feet. Exs. 4B.1- 4B.4. Applicant's initial diagnosis was vitamin D deficiency. Id. Applicant was seen again in October 2018. Ex. 4B.6. -At the October 2018 appointment, Applicant's symptoms had progressed to the point where she had constant pain up and down the entirety of the right leg and included aching in her back and throbbing and burning in her legs. Ex. 4B.6. Applicant underwent an MRI of her lumbar spine on October 25, 2018, an MRI on her brain on November 21, 2018, and an MRI of the thoracic spine on February 14, 2019. Ex. 4B.12-14, 4C.14-15, Ex. 4D.6-8. The MRI of the thoracic spine revealed a dumbbell-shaped mass causing severe spinal cord compression. Id.
5. Applicant's medical records further indicate that she was admitted to the University of Iowa Hospital on February 14, 2019, and underwent surgery to remove the spinal cord tumor on February 22, 2019. Applicant was discharged from the University of Iowa Hospital on February 25, 2019. Ex. 4D. Applicant was then admitted to Unity Point Health in Cedar Rapids for in-patient physical therapy and rehabilitation on February 25, 2019, through March 6, 2019. Ex. 4E.
6. Applicant testified that although she could not point to a single injury or incident that caused her spinal cord tumor, she believed that her work as a police officer may have led to the growth of the tumor. She further testified that it is likely that her tumor had been growing for a significant period of time during her employment. Applicant also testified that she returned to work after four months of recovery but could only perform light duty work. She has not been able to return to full duty since her surgery.
7. Applicant presented evidence from her physician at Unity Point Health that in his opinion, Applicant's job entailed repetitive use of her spine which may have been a factor in causing her spinal cord tumor. Ex. 10.

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 her 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) (emphasis added).

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. No evidence was presented showing that the Applicant was not a member in good standing at the time he submitted his application for an accidental disability retirement. The Medical Board opined that the Applicant was totally and permanently disabled as a result of her spinal cord injury. Accordingly, the only questions before the Committee are (1) whether the Applicant's spinal cord injury constitutes an injury or disease for which accidental disability benefits are available under Iowa Code Chapter 411; and (2) whether Applicant's spinal cord injury was incurred or aggravated by the actual performance of duty at a definite time and place.
6. Applicant's spinal cord injury does not fall within the definition of a "disease" under Iowa Code § 411.6(5)(c). Accordingly, for Applicant to be entitled to an accidental disability benefit, Applicant's spinal cord injury must constitute an injury that was incurred or aggravated at some definite time and place. Branson, 591 N.W.2d at 197 (Iowa 1999).
7. Applicant testified that she cannot identify a definite time and place which caused her spinal cord injury. Instead, her spinal cord injury resulted from a tumor that had grown over time. In addition, Applicant provided evidence that her repetitive use of her spine throughout her employment may have been a factor in causing her spinal cord tumor. Based on the evidence presented, Applicant is unable to show that her injury was incurred or aggravated at some definite time and place. Instead, the injury in question appears to be one of a cumulative nature. As the Iowa Supreme Court noted in Branson v. MFPRSI, 591 N.W. 2d 193 (Iowa 1999) cumulative trauma, while sufficient for entitlement to workers' compensation, is insufficient to meet the "definite time and place" requirement of § 411.6(5). As the Court further noted, the plain language of that section requires that a member's incapacitating disability be attributed to a specific event or incident in order to qualify for an accidental disability pension.
8. Taking all of the evidence into account, the Committee determined, in a unanimous decision, that the Appellant's spinal cord injury was not incurred or aggravated at some

DECISION

The appeal for an accidental disability pension on behalf of Shannon Sampson under chapter 411 is hereby denied. Applicant is entitled to an ordinary disability benefit.

Dated this 7 day of April, 2022.



Marty Pottebaum, 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 11th day of April, 2022.

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

Signature

