

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

IN THE MATTER OF:	:	
	:	
THOMAS DECKERT,	:	DECISION
	:	
Applicant.	:	
	:	

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

STATEMENT OF THE CASE

Thomas Deckert (“Applicant”) filed his application for an accidental disability pension on or about September 7, 2023. On November 22, 2023, 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 accidental disability pension on December 12, 2023. On January 10, 2024, the City of Davenport filed a timely appeal challenging the award of accidental disability benefit. A hearing was held before the Disability Appeals Committee of the Board (comprised of Duane Pitcher, Jennifer Sease, and Jason Zilk) on April 3, 2024 at the offices of the System. Duane Pitcher served as Chair. The City of Davenport appeared and was represented by attorney Amanda Richards. Applicant appeared as well. Daniel Cassady, Director, appeared on behalf of the System. Cynthia Boyle Lande was present as counsel to the Committee. Testimony was received from Stephanie Ellsworth, ARNP, Allison Zurcher, and Applicant.

FINDINGS OF FACT

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

1. Applicant was born on March 6, 1959. He commenced service as a firefighter for the City of Davenport on August 17, 1998. As of the date of Applicant’s application, he had reached the rank of Lieutenant. As of the date of Applicant’s application, he was a member in good standing with the City of Davenport Fire Department, as certified by Chief Mike Carlston. Ex. 1-4.
2. Applicant’s last working day on the job was October 4, 2023.
3. On November 22, 2023, the System’s Medical Board opined that Applicant was unable to perform the full duties of a fire lieutenant as a consequence of his

symptomatic presentation consistent with reactive airway disease. Ex. 5-19. The Medical Board further concluded that Applicant's incapacity is likely to be permanent based on the impression that it will be of at least one year's duration. *Id.*

4. Drs. Patrick Hartley and Chris Iverson with the Medical Board reviewed Applicant's medical history, performed in-person examinations of Applicant, and completed a comprehensive review of his medical records for the purpose of evaluating Applicant's ability to perform his regular duties as a fire lieutenant. Exs. 5-20, 5-28, 5-39. Drs. Hartley and Iverson are licensed physicians with expertise in pulmonary medicine and occupational health. Ex. 5-19. Both doctors opined that, to a reasonable degree of medical certainty, Applicant was disabled from performance of the full duties of his job as a result of his respiratory disease. Exs. 5-20, 5-39.
5. The System issued a decision awarding an accidental disability benefit on December 12, 2023. Ex. 6-1. The City's appeal was timely filed with the System on January 10, 2024. Ex. 7. Applicant did not appeal the decision. The City's appeal argued that Applicant was not incapacitated from the performance of his duties as a fire lieutenant. Ex. 7-2.
6. The City argued that Applicant did not meet the standard for an accidental disability benefit for two reasons. First, the City argued Applicant's motivation to retire was a Voluntary Separation Insurance Incentive Program offered by the City, and not Applicant's medical condition. *See* City Exs. 2, 8. Second, the City argued the Medical Board did not have complete and accurate information about Applicant's medications when evaluating his condition. As a result, the City argued, Applicant was not medically disabled from performing his normal job duties.
7. The City argued that the Medical Board did not have complete and accurate information with respect to whether Applicant was or was not taking the medication Trelegy at the time he completed a methacholine test. Medical records referenced by the City indicate that Applicant was prescribed Trelegy after his methacholine test. City Ex. 9-8. Applicant testified that, to the best of his knowledge, he was prescribed Trelegy before his methacholine test. Medical reports from the Medical Board are also inconsistent on this point. One doctor reported that Applicant began taking Trelegy after his methacholine test. Ex. 5-21. As a result, this doctor concluded that Applicant's methacholine test results were negative. *Id.* One doctor reported that Applicant had taken Trelegy prior to completion of his methacholine test. Ex. 5-28. This second doctor concluded that, as a result, the results of the test were invalid or nondiagnostic. *Id.* Neither doctor reported a conclusion that, due to Applicant's reported use of Trelegy prior to completion of the methacholine test, the Applicant was determined to have a positive result on the methacholine test. Similarly, neither doctor reported that the results of the methacholine test alone were determinative in reaching their conclusion that Applicant was disabled.
8. Applicant has submitted medical records documenting pulmonary symptoms and related medical treatment over a period of years. Applicant reported to evaluating physicians with the Medical Board that his symptoms of wheezing and coughing

began in late 2019. Ex. 5-21. In March of 2020, Applicant was seen by Dr. Vinay Satti, MD with Genesis Health Group Internal Medicine for an assessment and treatment. Ex. 4A-1. Dr. Satti identified symptoms of wheezing and diagnosed Applicant with reactive airway disease and began treatment with medication. Exs. 4A-1, 4A-2.

9. After over two years of treatment and follow-ups, Dr. Satti referred Applicant to a pulmonary specialist in September of 2022. Ex. 4A-40. In November of 2022, Applicant was first seen by Dr. Humphrey Wong, MD with Genesis Health Group Pulmonary. Ex. 4B-1. Dr. Wong continued testing and treatments. Ex. 4B.
10. In November of 2023, Applicant was evaluated by the Medical Board at the University of Iowa Hospitals and Clinics. Ex. 5. Applicant reported to his evaluating physicians that, notwithstanding experimentation with different medications, his symptoms continued to worsen. Ex. 5-21. Both evaluating physicians completed a thorough review of Applicant's medical records and an independent medical assessment. Exs. 5-26, 5-35. After completing those reviews and assessments, both evaluating physicians concluded, with a reasonable degree of medical certainty, that Applicant's reactive airway disease prevented him from fully performing all of the duties of a fire lieutenant. *Id.*
11. At the hearing, Applicant described how symptoms worsened throughout 2021 and 2022, with increased fatigue and wheezing, which ultimately led him to seek treatment from a pulmonary specialist in 2022. In his testimony, Applicant described how he had tried for several years to continue performing the full duties of a fire lieutenant up until his goal retirement date, notwithstanding his increasing physical symptoms. He further testified that, while it was a difficult decision, he ultimately accepted that he was not able to perform the full duties of a fire lieutenant as a result of his respiratory disease. As of the date of the hearing, Applicant believes that his condition is permanent and will not improve, and he expects to take medication for his condition for the rest of his life.
12. The City presented evidence that Applicant had been evaluated by Stephanie Ellsworth, ARNP, with Genesis Occupational Health on September 8, 2023. City Ex. 5. Stephanie Ellsworth testified at the hearing that, upon her evaluation of Applicant and medical records from previous appointments with other providers, it was her opinion that he was not limited in performance of his job duties. More specifically, Ellsworth testified that Applicant's pulmonary function test results were normal. As a result, following Applicant's examination, she released him to full duty.
13. City Benefits and Wellness Manager Allison Zurcher also testified. She described Applicant's work history and reported that Applicant had not missed work due to his medical condition prior to filing his application for accidental disability retirement. Zurcher reported that Applicant often worked overtime and also completed and performed well on the Fire Department's fitness assessments, which included a treadmill running component, during 2022 and 2023.

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) (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. The Iowa Supreme Court has ruled that if an individual is disabled as a result of a disease as set forth in Iowa Code § 411.6(5)(c), the individual is deemed to satisfy the requirement that the disabling condition was incurred in or aggravated by the actual performance of duty at some definite time and place. *Dubuque Policemen's Protective Ass'n v. City of Dubuque*, 553 N.W.2d 603 (Footnote 2) (Iowa 1996).
6. It is the position of the City of Davenport that Applicant is not incapacitated from the performance of duties as a fire lieutenant. The City of Davenport has introduced evidence indicating that Applicant was considering and had taken steps to pursue a non-disability retirement at the time he submitted his disability application. Additionally, the City raised concerns about the validity of the medical opinions of the Medical Board based on inconsistencies in information provided regarding Applicant's use of Trelegy before completion of his methacholine test.
7. The Committee has considered evidence presented by Applicant and the City of Davenport, including medical records of Applicant, assessments by the Medical Board, and testimony of Applicant, Stephanie Ellsworth, ARNP, and Allison Zurcher, City of Davenport Benefits and Wellness Manager. The Committee acknowledges that the record contains evidence supporting the City of Davenport's position that Applicant was not disabled from performance of full duties as a result of his

respiratory disease. However, after considering the body of evidence introduced in this matter in its entirety, the Committee concludes that the evidence supports the Medical Board's conclusion that Applicant was disabled from performance of his duties as a fire lieutenant and the System's award of an accidental disability retirement benefit to Applicant.

8. The medical records submitted by Applicant consist of documentation of several years of treatment for respiratory symptoms. The Medical Board doctors who evaluated Applicant and concluded he was disabled from performance of his job duties have expertise in occupational and pulmonary medicine and experience evaluating first responders. In his testimony, Applicant explained why he had continued to perform his job duties without reporting his condition over a period of years.
9. The Committee finds that Applicant has met his burden of establishing that he is incapacitated from the performance of duties as a fire lieutenant.

DECISION

The application for an accidental disability pension on behalf of Thomas Deckert under Chapter 411 is hereby affirmed. Applicant shall continue to receive accidental disability benefits as awarded on December 12, 2023.

Dated this 04 day of April, 2024.



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 5th day of April, 2024.

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

Signature Kathy Fraise