

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

IN THE MATTER OF:

JOHN HORTON,

Applicant.

DECISION

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

STATEMENT OF THE CASE

John Horton (“Applicant”) filed his application for an accidental disability pension on or about May 8, 2023. On November 8, 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 denying his disability pension on November 29, 2023. On December 19, 2023, Applicant filed a timely appeal challenging the denial of his application for disability pension. A hearing was held before the Disability Appeals Committee of the Board (comprised of Duane Pitcher, Eric Snyder, and Jennifer Sease) on May 8, 2024, at the offices of the System. Duane Pitcher served as Chair. Applicant appeared and was represented by attorney Jay Smith. The City of Sioux City appeared and was represented by attorney Connie Anstey. Daniel Cassady, Director, appeared on behalf of the System. Jennifer Lindberg was present as counsel to the Committee. Testimony was received from Applicant and Sioux City Police Chief Rex Mueller. The parties waived their right to file written briefs at the conclusion of the hearing.

FINDINGS OF FACT

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

1. Applicant was born on May 30, 1961. He commenced service as a police officer for the City of Sioux City on December 29, 1983. At the time Applicant submitted his application for accidental disability retirement he held the rank of lieutenant.
2. Applicant’s last working day on the job was May 31, 2023.
3. On November 29, 2023, the System’s Medical Board opined that Applicant was not disabled from his law enforcement duties. Ex. 5-6. Drs. Patrick Hartley and Claudia Corwin 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 police officer. Ex. 5. Dr. Hartley opined that Applicant "is not currently disabled as a consequence of his stable well described cardiac disease." Ex. 5-10. He went on to state that while Applicant had "exercise limitation, with shortness of breath, it is unclear whether this is attributable to deconditioning and obesity, as his cardiac disorder appears to be under optimal control." *Id.* Dr. Corwin could not "state with a reasonable degree of medical certainty that he has exercise limitations attributable to his heart disease." *Id.* at 5-16. She went on to opine that Applicant is "not permanently disabled" as a result of his cardiac disease, and that he is "now stable" from a cardiac perspective. *Id.* at 5-16.

4. The System issued a decision denying Applicant's application for accidental disability retirement on November 29, 2023. Applicant's appeal was timely filed with the System on December 19, 2023. The City did not appeal the decision. The only issue on appeal is whether Applicant's heart disease prevented him from performing his job duties as a lieutenant with the Sioux City Police Department.
5. Applicant began working as a police officer for the Sioux City Police Department in 1983. He was subsequently promoted in 1994 to sergeant, and was later promoted to lieutenant in 2005, a role he served in until his retirement. His responsibilities as lieutenant were primarily administrative, but he was expected to perform all duties of a police officer when necessary.
6. Applicant was first diagnosed with a heart murmur in 1998. The medical records evidence a series of treatments related to Applicant's heart condition. As detailed in the medical records, Applicant has a history of mitral valve repair and subsequent atrial fibrillation/flutter which required multiple ablation procedures. Ex. 5-8, 5-12 thru 5-15. Applicant also testified to a series of cardioversion procedures.
7. There were three occasions wherein Applicant was under physician orders not to return to work resulting from his heart condition. Ex. 3. He was released to full duty at the completion of each restricted period.
8. Applicant testified that he is unable to perform the tasks required of a police officer, including pursuing suspects, subduing suspects, or lifting because he worried it would create too much physical stress on his heart. He testified that if the City had not accommodated his need for administrative duties, he could not have performed the full duties of a police officer.
9. The City appeared in support of the Applicant. Police Chief Mueller testified that he decided to staff Applicant as Watch 1 lieutenant with the knowledge that it was a less physical role. He also testified that all members of the police department need to have the ability to function as a police officer. He testified he would not have placed Applicant in a position if he thought that Applicant could endanger other people.

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) 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.

4. The Committee considered evidence presented by Applicant and the City of Sioux City, including medical records of Applicant, assessments by the Medical Board, and testimony of Applicant and Police Chief Rex Mueller. 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 not disabled from performance of his duties as a police officer and the System's denial of accidental disability benefits should be upheld.
5. In light of the findings from the Medical Board, Applicant asked the Committee to also consider adopting the analysis set forth in *City of Carroll v. Mun. Fire & Police Ret. Sys. of Iowa* and determine he was totally disabled because of the risks associated with his heart disease. See *City of Carroll v. Mun. Fire & Police Ret. Sys. of Iowa*, 554 N.W.2d 286, 289 (Iowa Ct. App. 1996)(hereinafter "*Disburg*").
6. The Committee does not find *Disburg* controlling or persuasive. There, the member, Disburg, was determined by the Medical Board to be unable to perform his duties because his heart disease placed him at risk of another heart attack when engaged in the physical activities of a police officer. *Disburg*, 554 N.W.2d 286, 288. The Court of Appeals upheld the System's decision following a challenge by the City. The City argued, in part, that because Disburg performed all the duties of his job notwithstanding the underlying heart problems, he was not disabled. *Id.* at 289. The Court rejected this argument. As noted by the Court:

"[a]n applicant for benefits must still show he or she is totally and permanently incapacitated for duty as a natural and proximate cause of a work-related heart disease. However, the incapacity for duty *may* be supported not only by evidence of actual physical inability to perform the duties, but by evidence of the potential medical risks involved in the performance of those duties, due to the presence of the disease."

Id. at 289 (emphasis added).

Here, Applicant asks for a finding of disability based on the risks his condition created on his ability to perform his job duties. However, that argument is not supported by the evidence before the Committee.

7. In *Disburg*, the System relied on the Medical Board's finding that Disburg was "unable to perform his duties because his heart disease placed him at a very high risk of another heart attack when engaged in the strenuous physical activities of a police officer." *Id.* at 288. The facts here are exactly the opposite. The Applicant was evaluated by the Medical Board at the University of Iowa Hospitals and Clinics. Ex. 5. Both evaluating physicians completed a thorough review of Applicant's medical records and an independent medical assessment. Ex. 5. After completing those reviews and assessments, both evaluating physicians concluded, with a reasonable degree of medical certainty, that Applicant was *not* disabled due to his heart condition, and both noted his condition is currently "well managed" and "stable." Ex. 5.
8. The Committee carefully considered and relied on the two Medical Board opinions. The Medical Board doctors who evaluated Applicant and concluded he was not disabled from performance of his job duties have expertise in occupational and pulmonary medicine and experience evaluating first responders. Applicant provided no additional or contradictory medical evidence that any risks associated with his heart condition rendered him permanently incapacitated from performing his duties.
9. Considering the Medical Board findings relative to the other evidence presented, the Committee concludes that *Disburg* is not controlling as there is no evidence of disability here. The System, in *Disburg*, relied on the findings made by the Medical Board. The Committee does so here as well.
10. The Committee also considered the three Return to Duty documents, issued by three different treating physicians, each of which released Applicant to "full duty." Ex. 3. The job descriptions attached to each of these three Return to Duty documents are for a police officer, *not* the more administrative lieutenant position. The Committee also considered Police Chief Mueller's testimony that if an officer had a doctor's note stating that they are capable of returning to duty, he considers that proof that the police officer can fulfill their duties.
11. The Committee also considered arguments made by the Applicant that he was only able to continue to work given the "accommodations" made by the City. However, there was no documentation regarding any specific accommodations made by the City relative to Applicant's heart condition. There was no evidence presented that he was placed in the lieutenant role based solely on a need for limited duties. There was no evidence that he was released to light duty at any time for that role. Further, Police Chief Mueller testified that he placed Applicant in that position after determining he was capable of performing the tasks required by that position. This would include, as

both Applicant and Police Chief Mueller testified, general duties required of a police officer. The Committee does not believe this position supports a finding of disability.

12. Finally, the Applicant and the City made a policy argument that police officers in Applicant's position should be entitled to an accidental disability benefit, specifically arguing that individuals who work long careers and shift to less strenuous roles instead of retiring should not do that to their detriment. The Committee is aware of the tension such decisions may create but must make determinations based on the statutory criteria and evidence before it. The Committee concludes the evidence is not sufficient here to support a finding of disability.

DECISION

The appeal for an accidental disability pension on behalf of John Horton under chapter 411 is hereby denied.

Dated this 9 day of May, 2024.

A handwritten signature in dark ink, appearing to read "Duane Pitcher", written over a horizontal line.

Duane Pitcher, Chair
Disability Appeals Committee

COPIES TO:

Jay Smith
Smith & McElwain Law Office
3209 Ingersoll Ave, Suite 104
Des Moines, IA 50312
Counsel for Member

Connie Anstey
Assistant County Attorney
405 Sixth Street, Suite 511
P.O. Box 447
Sioux City, IA 51102
City Attorney

Daniel Cassady, Director
Municipal Fire and Police Retirement
System of Iowa
7155 Lake Drive, Suite 201
West Des Moines, IA 50266

Jennifer E. Lindberg
Brown, Winick, Graves, Gross, and
Baskerville, P.L.C.
666 Grand Suite 2000
Des Moines, IA 50309
Counsel for Committee

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 10th day of May, 2024.

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

Signature Kathleen Fräise