

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

IN THE MATTER OF:

ROBERTO LUNA,

Applicant.

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DECISION

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

STATEMENT OF THE CASE

Roberto Luna (“Applicant”) filed his application for an accidental disability pension on or about April 12, 2024. On July 20, 2024, 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 August 13, 2024. On or about September 10, 2024, Applicant filed, through Applicant’s attorney Charles Gribble, a timely appeal challenging the award of an ordinary, rather than accidental, disability pension. The System issued an amended disability decision awarding an ordinary disability pension due to PTSD on January 6, 2025.

A hearing was held before the Disability Appeals Committee of the Board (comprised of Marty Pottebaum, Duane Pitcher, and Jennifer Sease) (the “Committee”) on May 6, 2025, at the offices of the System. Marty Pottebaum served as Chair. Corey Goodenow observed the hearing on behalf of the System. Applicant was represented by attorney Charles Gribble. The City of Davenport (the “City”) was represented by attorney Amanda Richards. Daniel Cassady, Executive Director, appeared on behalf of the System. Jennifer Lindberg was present as counsel to the Committee. Testimony was received from Applicant, Vincent Jacobsen, Thomas Babcock, Craig Stone, Captain Gregory Behning, and Lieutenant Dennis Colclasure. The parties waived the filing of post-hearing briefs.

FINDINGS OF FACT

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

1. Applicant was born on December 7, 1974. **Ex. 1-1.** He began service as a police officer for the City of Davenport on August 22, 2005. **Ex. 1-5.** At the time he filed his application for disability benefits, Applicant held the rank of Police Officer 1st Class. *Id.*

2. Applicant's last working day with the City of Davenport was August 14, 2024. **Ex. 5-1.** He received his final paycheck on August 23, 2024. ***Id.***
3. Applicant filed for an accidental disability pension on or around April 12, 2024. **Ex. 1-1.**
4. On July 20, 2024, the System's Medical Board opined that Applicant is unable to perform the full duties of a police officer as a consequence of PTSD. **Ex. 5-9.** The Medical Board further opined that 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.***
5. The System issued a decision awarding an ordinary disability pension due to PTSD on August 13, 2024. **Ex. 6-1.** The applicant's appeal was timely filed with the System on September 10, 2024. **Ex. 7-1.** The City did not appeal the decision.
6. The System issued an amended disability decision awarding an ordinary disability pension due to PTSD on January 6, 2025. **Ex. 6A.** The amended decision awarded an ordinary disability benefit pension due to PTSD. The amended decision corrected the statutory standard applied to reach that decision. The original decision incorrectly referenced the legal standard for an accidental disability benefit under Iowa Code § 411.6 as of the date the decision had been granted, which was different than the legal standard for an accidental disability benefit under Iowa Code § 411.6 as of the date Applicant submitted his application for disability benefits. The amended decision correctly referenced the legal standard for an accidental disability benefit under Iowa Code § 411.6 as of the date Applicant submitted his application for disability benefits. Applicant elected to proceed with the appeal of the amended disability decision.
7. The only issue on appeal is whether Applicant's PTSD qualifies him for an accidental disability retirement rather than an ordinary disability retirement.
8. The incident at issue in this appeal arose on October 31, 2023, when Applicant was called to a residence to execute a warrant. Upon entering the house, he and Officer Jacobsen approached the subject in an upstairs bedroom. The subject told the officers that she was "not going to jail." While the subject remained lying on the bed, she turned and displayed a knife. Applicant testified that it looked like a kitchen knife with a seven (7) inch blade. The subject continued to state that she was "not going to jail," and refused to comply with Applicant's instructions to put the knife down. The subject got out of bed while carrying the knife and began walking towards the officers who retreated, and the suspect quickly closed the bedroom door. Both officers drew their service weapons when the knife was displayed. Officer Jacobsen testified that the subject was carrying the knife by the handle, with the blade pointing to the ground. He testified that while he felt threatened by the subject while she was approaching, she was carrying the knife in a "non-aggressive manner."
9. The time that elapsed from when Applicant and Officer Jacobsen first approached the subject and when the suspect closed the bedroom door was less than two minutes. **City Exhibit 13-1.**

10. Applicant had previously encountered this suspect a few weeks prior when he picked her up from this same residence and drove her to a different location following a dispute between the subject and the homeowner.
11. Each of the officers called to testify by Applicant testified that it was rare for officers to draw weapons while responding to this type of call. These officers also testified that this event would be considered a greater stressor in magnitude than ordinary day to day stressors of the job.
12. All the officers testified that they received training from the Davenport Police Department. This included training at the police academy, yearly training, and training during daily briefings. During the daily briefings, the officers would be shown videos to reinforce certain situations, including officer safety. The officers each testified to receiving training on defensive tactics, weapons, and how to respond when approached by a suspect with a weapon.
13. It is undisputed that the officers involved in the Incident followed proper protocols while responding to the Incident.
14. Following the Incident, the Applicant had difficulty sleeping and experienced anxiety that impacted his ability to be out in public. He first sought assistance for these issues by contacting his supervisor, Sgt. Gruenhagen, approximately ten days after the Incident, after he was struggling to manage his anxiety.
15. Applicant first visited Dr. Gillespie on November 10, 2023, for care related to the Incident. **Ex. 4A-1.** After an appointment with Dr. Robert Gillespie with the Psychology Health Group, he was referred to see Stephanie Ellsworth, ARNP at Genesis Occupational Health, who began treating Applicant in conjunction with Dr. Gillespie. **Ex. 4B-1.**
16. Ms. Ellsworth diagnosed Applicant with an acute stress reaction, insomnia, generalized anxiety disorder, and a single episode major depressive disorder. **Ex. 4B-3.** At a visit on November 29, 2023, Applicant was sent by Ms. Ellsworth to Genesis East for emergent treatment. **Ex. 4B-5 – 4B9.** He was admitted to Genesis East after experiencing suicidal ideation, where he remained until December 2, 2023. **Ex. 4C-1 – 4C25.**
17. Following his discharge, Applicant continued to seek treatment from both Dr. Gillespie and Ms. Ellsworth. On January 11, 2024, Dr. Gillespie diagnosed the Applicant with PTSD. **Ex. 4A-40 – 4A-44.** He continues to seek treatment and has not returned to work since November 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. In previous cases, the Iowa Supreme Court has ruled that an accidental disability pension is payable under Iowa Code 411 for a mental injury only if the injury was caused by workplace stress of greater magnitude than the day-to-day stresses experienced by other police officers. *City of Cedar Rapids v. MFPRSI*, 572 N.W.2d 919, 922 (Iowa 1998) ("Cornish"); *Moon v. MFPRSI*, 548 N.W.2d 565, 568 (Iowa 1996). The Court has referred to this test as "legal causation." *Id. Cornish* and *Moon* followed the same reasoning as previously issued decisions in the workers' compensation context. *See Dunlavey v. Economy Fire & Casualty Company*, 526 N.W.2d 845 (Iowa 1995).
6. The Iowa Supreme Court again revisited the legal causation standard in the workers' compensation case of *Tripp v. Scott Emergency Communication Center*, 977 N.W.2d 459 (Iowa 2022). While the Court's decision and a lengthy dissent touched on the application of the legal causation test in the context of Chapter 411, that issue was not before the Court in *Tripp*, and the *Moon* and *Cornish* decisions have not been overruled. *Tripp* may have "call[ed] into question the continuing viability of the *Cornish-Moon* legal causation test going forward, at least for now, that legal standard remains the governing law in a chapter 411 disability case in Iowa." *See Carter v. Mun. Fire & Police Ret. Sys. of Iowa*, No. 23-1504, 2024 WL 4761826, at *4 (Iowa Ct. App. Nov. 13, 2024).
7. Accordingly, Applicant in this case has the burden of establishing that his disabling mental injury was caused by workplace stress greater than the day-to-day stress experienced by other police officers.

8. In 2024, the legislature amended Iowa Code §411.6(5) to clarify the standard under which an accidental disability benefit is payable for mental injury:

To establish that a mental incapacity occurred as the natural and proximate result of an injury or disease incurred in or aggravated by the actual performance of duty or arising out of and in the course of the employment, or while acting, pursuant to order, outside of the city by which the member is regularly employed, the member must demonstrate that the mental incapacity *is traceable to a readily identifiable work event constituting a manifest happening of a sudden traumatic nature from an unexpected cause or unusual strain in the workplace. Whether an incident is traumatic, unexpected, or unusual is determined by comparing the incident, and not the effect on the member, to the experiences of other police officers or fire fighters in Iowa.* A member must be able to trace their mental injury to a specific event or events in the workplace to be eligible for accidental disability benefits.

Iowa Code §411.6(5)(d)(emphasis added).

9. While the revised statute's effective date preceded the System's decision on Applicant's application, the statute was not made retroactive and thus was not in effect at the time Applicant submitted his application for disability benefits to the System.
10. No evidence was presented showing 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 Applicant was totally and permanently disabled as a result of his PTSD. Accordingly, the only question before the Committee is whether Applicant's PTSD disorder constitutes an injury or disease for which accidental disability benefits are available under Iowa Code Chapter 411.
11. Applicant's PTSD disorder 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 PTSD disorder must constitute an injury and must be caused by workplace stress of greater magnitude than the day-to-day stresses experienced by other police officers. *City of Cedar Rapids*, 572 N.W.2d at 922; *Moon*, 548 N.W.2d at 568.
12. 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 stressful incidents. This list is not exclusive, and the Committee may consider other relevant factors as well. Additionally, the Committee may weigh certain factors more heavily than others depending on the specific facts of an appeal.

13. The Committee considered each of these factors as applied to the evidence presented in this appeal. The Committee considered the multitude of evidence presented on the training provided to the Applicant and concludes that the Incident involved a situation of the kind for which Applicant was trained. Further, it was undisputed that the officers involved in this situation followed standard protocols in connection with the Incident. While the Applicant had previously encountered the subject, the evidence demonstrates that he had very little familiarity with her. The fourth factor, the culpability or innocence of the victim, is not material here as there was no victim and the subject at issue was being arrested due to an outstanding warrant. Finally, Applicant provided no testimony or evidence that the Incident occurred in temporal proximity to other stressful events.
14. The Committee considered the testimony that it is infrequent or rare that officers are approached by someone wielding a weapon but weighed that against the evidence presented that officers are trained for these situations and these are expressly considered part of the day-to-day stressors that officers may experience.
15. In light of the fact that Applicant and officers often face dangerous suspects, they received training on responding in such a situation, and all protocols were followed, the Committee assesses that the Incident was not above and beyond the day-to-day stress experienced by other police officers.
16. Taking all of the evidence into account, the Board determined that the incident did not constitute workplace stress of greater magnitude than the day-to-day stresses experienced by other police officers. Accordingly, the System's decision awarding an ordinary disability retirement benefit is affirmed.

DECISION

The appeal for an accidental disability pension on behalf of Roberto Luna under Chapter 411 is hereby denied. Applicant is entitled to an ordinary disability benefit.

Dated this 8 day of May, 2025.

A handwritten signature in cursive script, appearing to read "Marty Pottebaum", written over a horizontal line.

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 9th day of May, 2025.

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

Signature

Kathy Frause