

**MINUTES  
OF  
DISABILITY APPEALS COMMITTEE  
July 23, 2013 at 9:00 A.M. E.T.  
Board Room  
Perimeter Park West, 1270 Louisville Road  
Frankfort, Kentucky 40601**

At the meeting of the Disability Appeals Committee, held on July 23, 2013, the following members were present: Susan Smith, Chair, Edwin Davis and Mary Hook, Proxy on behalf of Timothy Longmeyer.

In addition, those present were Charlene Haydon, KRS, Deborah Crocker, KRS and Tracy Chambers, Recording Secretary.

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It was moved by Ms. Hook, seconded by Mr. Davis, and carried to approve the Minutes of the June 19, 2013 Disability Appeals Committee Meeting.

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Ms. Smith noted the necessity of closed session for the purpose of reviewing the disability applications of Administrative Action Numbers: 11-D-159, 12-D-54, 12-D-11, 12-D-52, 11-D-102, 12-D-35, 12-D-24, 11-D-23, 12-D-36, 12-D-40, 12-D-37, 12-D-17, 11-D-136, 11-D-133 and 12-D-115.

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Following discussion in closed session, the Committee returned to open session, whereafter the following transpired.

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It was moved by Ms. Hook, seconded by Mr. Davis, and carried unanimously, that the Committee members having considered the record, including the recommended order and any exceptions duly filed, in the case of Administrative Action Number: 11-D-159, to accept the Hearing Officer's Report, as modified in the Board of Trustees Final Order, and to deny claimant's application for disability retirement benefits.

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It was moved by Mr. Davis, seconded by Ms. Hook, and carried unanimously, that the Committee members having considered the record, including the recommended order and any exceptions duly filed, in the case of Administrative Action Number: 12-D-54, to accept the Hearing Officer's Report, Findings of Fact, Conclusions of Law, and to deny claimant's application for disability retirement benefits.

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It was moved by Ms. Hook, seconded by Mr. Davis, and carried unanimously, that the Committee members having considered the record, including the recommended order and any exceptions duly filed, in the case of Administrative Action Number: 12-D-11, to accept the Hearing Officer's Report, as modified in the Board of Trustees Final Order, and to deny claimant's application for duty-related disability retirement benefits. The Board also denies Claimant's Motion to File Late Exceptions. KRS 13B.110 clearly states that Exceptions must be filed within fifteen (15) days of the mailing of the Recommended Order. KRS Chapter 13B is the ruling authority on all administrative matters in this Commonwealth, and the Rules of Civil Procedure are not applicable here. Furthermore, as an administrative agency, Kentucky Retirement Systems is simply not allowed to enlarge a statutorily prescribed time frame, because doing so would exceed the boundaries of the authority vested in it as a creature of statute. Curtis v. Belden Electric Wire and Cable, 760 S.W.2d 97, 99 (Ky. App. 1988) (overruled on other grounds by Humana, Inc. v. Blose, 247 S.W.3d 892 (Ky. 2008)); Public Service Commission of Kentucky v. Attorney General, 860 SW2d 296, 298 (Ky. App. 1993); Baker v. Commonwealth, 2007 WL 3037718 (Ky. App.); Department for Natural Resources & Environmental Protection v. Stearns Coal & Lumber Company, 563 S.W.2d 471, 473 (Ky. 1978).

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It was moved by Ms. Hook, seconded by Mr. Davis, and carried unanimously, that the Committee members having considered the record, including the recommended order and any exceptions duly filed, in the case of Administrative Action Number: 12-D-52, to reject the Hearing Officer's Report to deny disability retirement benefits, and to instead, issue a Board of Trustees Order, approving claimant's application for disability retirement benefits, with review in two years. Approval is based solely on the claimant's back condition, specifically the cumulative effect of her herniated disc at L3-L4, the resulting lumbar laminectomy, degenerative disc disease and sciatica.

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It was moved by Mr. Davis, seconded by Ms. Hook, and carried unanimously, that the Committee members having considered the record, including the recommended order and any exceptions duly filed, in the case of Administrative Action Number: 11-D-102, to accept the Hearing Officer's Report, Findings of Fact, Conclusions of Law, and to approve claimant's application for disability retirement benefits, with review in three years. Approval is based upon neurological damage, cognitive impairment, depression and anxiety following surgery for a brain abscess.

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It was moved by Mr. Davis, seconded by Ms. Hook, and carried unanimously, that the Committee members having considered the record, including the recommended order and any exceptions duly filed, in the case of Administrative Action Number: 12-D-35, to accept the Hearing Officer's Report, as modified in the Board of Trustees Final Order, and to deny claimant's application for disability retirement benefits.

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It was moved by Ms. Hook, seconded by Mr. Davis, and carried unanimously, that the Committee members having considered the record, including the recommended order and any exceptions duly filed, in the case of Administrative Action Number: 12-D-24, to accept the Hearing Officer's Report, Findings of Fact, Conclusions of Law, and to approve claimant's application for disability retirement benefits, with review in one year and denying claimant's application for duty-related disability retirement benefits. Approval is based upon documented injury to claimant's right leg and foot.

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It was moved by Mr. Davis, seconded by Ms. Hook, and carried unanimously, that the Committee members having considered the record, including the recommended order and any exceptions duly filed, in the case of Administrative Action Number: 11-D-23, to reject the Hearing Officer's Report on Remand to approve disability retirement benefits, and to instead, issue a Board of Trustees Order, denying claimant's application for disability retirement benefits and duty-related disability retirement benefits.

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It was moved by Mr. Davis, seconded by Ms. Hook, and carried unanimously, that the Committee members having considered the record, including the recommended order and any exceptions duly filed, in the case of Administrative Action Number: 12-D-36, to accept the Hearing Officer's Report, Findings of Fact, Conclusions of Law, and to deny claimant's application for disability retirement benefits.

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It was moved by Ms. Hook, seconded by Mr. Davis, and carried unanimously, that the Committee members having considered the record, including the recommended order and any exceptions duly filed, in the case of Administrative Action Number: 12-D-40, to accept the Hearing Officer's Report, Findings of Fact, Conclusions of Law, and to deny claimant's application for disability retirement benefits.

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It was moved by Mr. Davis, seconded by Ms. Hook, and carried unanimously, that the Committee members having considered the record, including the recommended order and any exceptions duly filed, in the case of Administrative Action Number: 12-D-37, to accept the Hearing Officer's Report, Findings of Fact, Conclusions of Law, and to deny claimant's application for disability retirement benefits.

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It was moved by Ms. Hook, seconded by Mr. Davis, and carried unanimously, that the Committee members having considered the record, including the recommended order and any exceptions duly filed, in the case of Administrative Action Number: 12-D-17, to accept the Hearing Officer's Report, Findings of Fact, Conclusions of Law, and to deny claimant's application for disability retirement benefits.

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It was moved by Mr. Davis, seconded by Ms. Hook, and carried unanimously, that the Committee members having considered the record, including the order of dismissal and any exceptions duly filed, in the case of Administrative Action Number: 11-D-136, to accept the Order of Dismissal, as modified in the Board of Trustees Final Order, and to dismiss, with prejudice, claimant's appeal of his denial for disability retirement benefits. The Recommended Order is modified only to advise claimant that he is eligible for an Early Retirement benefit, pending completion of the necessary paperwork.

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It was moved by Ms. Hook, seconded by Mr. Davis, and carried unanimously, that the Committee members having considered the record, including the order of dismissal and any exceptions duly filed, in the case of Administrative Action Number: 11-D-133, to accept the Order of Dismissal and to dismiss claimant's appeal of his denial for disability retirement benefits, at the claimant's own request.

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