

**MINUTES
OF
DISABILITY APPEALS COMMITTEE
July 29, 2014 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 29, 2014, the following members were present: Vince Lang, Chair, William Summers and Mary Hook, Proxy on behalf of Timothy Longmeyer.

In addition, those present were Ed Davis, KRS Board Member, Mary Helen Peter, KRS Board Member, Charlene Haydon, KRS, Becky Stephens, KRS, Deborah Crocker, KRS, Carrie Slayton, KRS and Tracy Chambers, Recording Secretary.

Mr. Lang noted the necessity of closed session for the purpose of reviewing the disability applications of Administrative Action Numbers: 13-D-48, 13-D-72, 11-D-139, 12-D-128, 13-D-11, 13-D-62, 13-D-38, 13-D-14, 13-D-68, 12-D-77, 12-D-25, 13-D-29, 12-D-116, 13-D-32 and 13-D-132.

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

It was moved by Ms. Hook, seconded by Mr. Summers, 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: 13-D-48, to accept the Hearing Officer's Report, Findings of Fact, Conclusions of Law, and to deny claimant's application for disability retirement benefits. The Board further moves to take notice of the fact that the Claimant submitted verification that her Exceptions were provided to, and thoroughly considered by, the Board in its deliberations of this case. However, the preponderance of the evidence still supports the hearing officer's ultimate conclusion that the Claimant failed to prove permanent disability pursuant to KRS 61.600, for the multiple reasons set forth at length in the Recommended Order.

It was moved by Mr. Summers, 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: 13-D-72, to accept the Hearing Officer's Report, Findings of Fact, Conclusions of Law, and to deny claimant's application for disability retirement benefits.

It was moved by Ms. Hook, seconded by Mr. Summers, 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-139, to accept the Hearing Officer's Report, Findings of Fact, Conclusions of Law, and to deny claimant's application for disability retirement benefits.

It was moved by Mr. Summers, 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-128, 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.

It was moved by Ms. Hook, seconded by Mr. Summers, 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: 13-D-11, 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 four years. Approval is based upon the cumulative effect of the claimant's feet and leg issues and COPD.

It was moved by Mr. Summers, 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: 13-D-62, to accept the Hearing Officer's Report, as modified in the Board of Trustees Final Order, and to approve claimant's application for disability retirement benefits, with review in four years. Approval is based solely upon the claimant's knee condition.

In the case of Administrative Action Number: 13-D-38, the Committee members voted unanimously to accept the Hearing Officer's Report, as modified in the Board of Trustees Final Order, to approve claimant's application for disability retirement benefits, with review in five years. Approval is based on the cumulative effect of the claimant's orthopedic conditions, specifically: osteoarthritis, low back pain, neck pain and shoulder pain.

It was moved by Mr. Summers, 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: 13-D-14, 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.

It was moved by Ms. Hook, seconded by Mr. Summers, 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: 13-D-68, to accept the Hearing Officer's Report, as modified in the Board of Trustees Final Order, and to approve claimant's application for disability retirement benefits, with review in four years. Approval is based upon the claimant's arthritis, joint and back pain and her resulting lifting restrictions.

It was moved by Mr. Summers, 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-77, to remand this case to the hearing officer for additional Findings of Fact as follows.

The hearing officer needs to rule on whether the claimant met his burden of proving that each of the individual conditions listed below mentally or physically incapacitated him on a permanent basis from his last date of paid employment. Alternatively, should any of these conditions be ineligible for consideration due to being pre-existing in nature or post-dating the claimant's last date of paid employment, then the hearing officer needs to make that finding for each applicable condition in the Order:

- 1) Gall bladder condition
- 2) Appendix
- 3) Kidney issues

- 4) Fatty liver
- 5) Hernia
- 6) Neck pain

The hearing officer needs to make additional findings as to whether the claimant met his burden of proof that the conditions listed below cumulatively mentally or physically incapacitated him on a permanent basis from his last date of paid employment. Should any of these conditions be ineligible for consideration due to being pre-existing in nature or post-dating the claimant's last date of paid employment, then the hearing officer needs to make that finding for each applicable condition in the Order:

- 1) Right knee injury
- 2) Gall bladder
- 3) Appendix
- 4) Kidney issues
- 5) Sinusitis
- 6) Fatty liver
- 7) Hernia
- 8) Carpel tunnel syndrome
- 9) Neck pain

Finally, the hearing officer needs to rule on whether the claimant met his burden of proving that any alleged incapacity from the following conditions did not result, either directly or indirectly, from bodily injury, mental illness, disease, or condition which pre-existed his employment date:

- 1) Rheumatoid arthritis (RA)
- 2) Cardiovascular disease
- 3) Diabetes
- 4) Depression
- 5) GERD

- 6) Right knee injury
- 7) Hyperlipidemia
- 8) Vitamin B1 and B6 deficiencies
- 9) Gall bladder
- 10) Kidney issues
- 11) Appendix
- 12) Sinusitis
- 13) Fatty liver
- 14) Hernia
- 15) Carpel Tunnel Syndrome
- 16) Neck Pain

Once the hearing officer has made these additional Findings of Fact he shall promptly issue a Recommended Order on Remand in order to minimize any further delay to the parties.

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It was moved by Ms. Hook, seconded by Mr. Summers, 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-25, 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. Summers, 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: 13-D-29, 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. Summers, 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: 12-D-116, to accept the Order of Dismissal and to dismiss claimant's application for disability retirement benefits, at the claimant's beneficiary's request.

It was moved by Mr. Summers, 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: 13-D-32, to accept the Order of Dismissal and to dismiss claimant's application for disability retirement benefits, at the claimant's own request.

It was moved by Ms. Hook, seconded by Mr. Summers, and carried unanimously, that the Committee members having considered the record, including the default order of dismissal and any exceptions duly filed, in the case of Administrative Action Number: 13-D-132, to accept the Default Order of Dismissal and to dismiss claimant's application for disability retirement benefits due to his failure to comply with the prehearing process and failure to respond to the Show Cause Order.

There being no further business, the meeting was adjourned at 9:45 A.M., E.T. to meet on September 29, 2014 at 9:00 A.M., E.T.

CERTIFICATION

I, Tracy Chambers, do certify that I was present at this meeting, and I have recorded the above action of the Committee on the various items considered by it at this meeting.

Tracy Chambers 9.29.14
Tracy Chambers Date
Recording Secretary

I, Vince Lang, do certify that the Minutes of the meeting held on July 29, 2014 were approved by the Disability Appeals Committee on September 29, 2014.

Vince Lang 9-29-14
Vince Lang, Chair Date
Disability Appeals Committee

I, Deborah Crocker, was present at the July 29, 2014 Disability Appeals Committee meeting, and have reviewed the minutes for form, content and legality.

Deborah Crocker 9/29/14
Deborah Crocker Date
KRS Staff Attorney