

**MINUTES
OF
DISABILITY APPEALS COMMITTEE
March 31, 2015 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 March 31, 2015, the following members were present: Vince Lang, Chair, William Summers and Mary Hook, Proxy on behalf of Timothy Longmeyer.

In addition, those present were Becky Stephens, KRS, Liza Welch, KRS, Deborah Crocker, KRS and Tracy Chambers, Recording Secretary.

It was moved by Ms. Hook, seconded by Mr. Summers, and carried to approve the Minutes of the January 27, 2015 Disability Appeals Committee Meeting.

Mr. Lang noted the necessity of closed session for the purpose of reviewing the disability applications of Administrative Action Numbers: 14-D-06, 13-D-75, 13-D-140, 14-D-33, 13-D-118, 13-D-50, 13-D-129, 13-D-104, 09-D-150, 13-D-138, 13-D-88, 13-D-139, 14-D-45, 13-D-121, 13-D-135 and 12-D-117.

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: 14-D-06, to reject the Hearing Officer's Report to deny disability retirement benefits and duty-related disability retirement benefits, and to instead, issue a Board of Trustees Order, approving claimant's application for disability retirement benefits and denying her application for duty-related disability retirement benefits. Approval is based upon the claimant's cirrhosis with resulting esophageal varices that prevent her from performing the heavy lifting required by her job. First review of the case shall occur in one year.

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-75, to accept the Hearing Officer's Report, as modified in the Board of Trustees Final Order, and to deny both the claimant's application for disability retirement benefits and her application for duty-related 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-140, to accept the Hearing Officer's Report, Findings of Fact, Conclusions of Law, and to deny claimant's application for in-line-of-duty (ILOD) enhanced 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 recommended order and any exceptions duly filed, in the case of Administrative Action Number: 14-D-33, 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 five years. Approval is based solely upon the claimant's back condition.

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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-118, to accept the Hearing Officer's Report on Remand, 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. Lang, seconded by Mr. Summers, and carried by a majority, 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-50, 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. Ms. Hook abstained.

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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: 13-D-129, to accept the Hearing Officer's Report, Findings of Fact, Conclusions of Law, and to deny both the claimant's application for disability retirement benefits and his application for duty-related 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: 13-D-104, 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 and denying his application for duty-related disability retirement benefits. Approval is based solely upon the claimant's back condition and review shall occur in five years.

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: 09-D-150, 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 and her application for duty-related 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: 13-D-138, to accept the Hearing Officer's Report, as modified in the Board of Trustees Final Order, and to deny both the claimant's application for disability retirement benefits and his application for duty-related disability retirement benefits. The Board further moves to deny the Claimant's Motion for Extension of Time to File Exceptions. The law is clear that "[A]n administrative agency cannot enlarge statutorily prescribed time frames." Curtis v. Belden Electronic Wire and Cable, a Div. of Cooper Industries, 760 S.W.2d 97, 99 (Ky. App. 1988). Furthermore, the Court of Appeals stated in Baker v. Commonwealth, 2007 WL 3037718, 2005-CA-001588-MR (Ky. App.), that Kentucky Retirement Systems is prohibited from extending the deadline for filing of Exceptions. In that case, the Court of Appeals noted that Kentucky Retirement Systems had been allowing individuals fifteen (15) days from *receipt* of Recommended Orders to file Exceptions. However, the Court noted that KRS 13B.110(4) only allowed fifteen (15) days from the date the Recommended Order was *mailed*. The Court went on to state that Kentucky Retirement Systems could not extend that deadline beyond what the law allowed. Thus, in this case, the Board of Trustees of Kentucky Retirement Systems cannot grant Claimant additional time to file Exceptions, regardless of the circumstances described in his Motion.

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-88, 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 five years. Approval is based on the cumulative effect of the claimant's lumbar degenerative disc disease and significant hip osteoarthritis.

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-139, to accept the Hearing Officer's Report, Findings of Fact, Conclusions of Law, and to deny both the claimant's application for disability retirement benefits and her application for duty-related 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: 14-D-45, 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 on the cumulative effect of diabetes mellitus complications, Charcot-Marie-Tooth disease and below the knee amputation of the left leg and foot.

It was moved by Mr. Summers, seconded by Mr. Lang, and carried by a majority, 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-121, 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. Ms. Hook abstained.

It was moved by Mr. Summers, seconded by Mr. Lang, and carried by a majority, 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-135, to accept the Hearing Officer's Report, Findings of Fact, Conclusions of Law, and to deny claimant's application for hazardous in-line-of-duty disability retirement benefits. Ms. Hook abstained.

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 of dismissal and any exceptions duly filed, in the case of Administrative Action Number: 12-D-117, to accept the Recommended Order of Dismissal and to dismiss claimant's appeal of his denial for disability retirement benefits, at the claimant's own request.

There being no further business, the meeting was adjourned at 9:47 A.M., E.T. to meet on May 26, 2015 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 5-24-15
Tracy Chambers Date
Recording Secretary

I, Vince Lang, do certify that the Minutes of the meeting held on March 31, 2015 were approved by the Disability Appeals Committee on May 26, 2015.

Vince Lang 5-26-15
Vince Lang, Chair Date
Disability Appeals Committee

I, Deborah Crocker, was present at the March 31, 2015 Disability Appeals Committee meeting, and have reviewed the minutes for form, content and legality.

Deborah Crocker 5/26/15
Deborah Crocker Date
KRS Staff Attorney