

**MINUTES
OF
DISABILITY APPEALS COMMITTEE
September 30, 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 September 30, 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.

It was moved by Ms. Hook, seconded by Mr. Davis, and carried to approve the Minutes of the August 22, 2013 Disability Appeals Committee Meeting.

Ms. Smith noted the necessity of closed session for the purpose of reviewing the disability applications of Administrative Action Numbers: 10-D-132, 12-D-10, 12-D-90, 11-D-128, 12-D-84, 11-D-143, 12-D-46, 12-D-69, 12-D-55, 12-D-75, 11-D-109, 10-D-39, 11-D-147, 12-D-76, 12-D-126 and 12-D-134.

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

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: 10-D-132, to accept the Hearing Officer's Report, Findings of Fact, Conclusions of Law, and to approve claimant's application for hazardous duty disability retirement benefits, with review in three years. Approval is based solely upon the claimant's chronic low back disease at the L4-L5 and L5-S1 levels with radiculopathy.

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-10, to accept the Hearing Officer's Report, as modified in the Board of Trustees Final Order, and to deny claimant's application for both disability retirement benefits and duty-related disability retirement benefits. The Board further moves to deny the Claimant's Motion to Remand this matter to the hearing officer. The claimant's approval for Social Security disability benefits is not prima facie proof of disability in this proceeding. Claimant's counsel is respectfully directed to review 105 KAR 1:210 (Section 8) which allows hearing officers to consider any objective medical records contained in Social Security and Workers' Comp, etc. proceedings, but makes it abundantly clear that the ultimate determinations in other administrative forums are not to be considered definitive proof of disability in KRS proceedings, due to the vast procedural differences inherent in each appeals process. Furthermore, as correctly pointed out by counsel for the Systems, the Claimant's Social Security submissions did not even contain any additional objective medical records. Furthermore, the Board moves to grant Systems' Motion to Strike all of the evidence that was attached to the Claimant's Exceptions. The record was already closed at this point. Exceptions are not a conduit for circumventing administrative deadlines in order to get evidence into the record well after it has already been closed. The Board takes full note of the fact that this Claimant's counsel chose not to submit a position statement nor a reply statement in this matter. Filing some 107 pages of Exceptions may be an attempt to redress those omissions, but, with the administrative record already closed, and no Motion to Reopen ever being made, this evidence simply cannot be legally considered.

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-90, 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. 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-128, 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.

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-84, 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 three years. Approval is based upon the cumulative effect of the claimant's neuropathy, lower back pain and arthritis.

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-143, 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 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-46, 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. 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-69, 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 three years. Approval is based upon the cumulative effect of the claimant's rheumatoid arthritis and osteoarthritis.

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-55, 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 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-75, 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. 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-109, to accept the Hearing Officer's Report, Findings of Fact, Conclusions of Law, and to deny claimant's application for both disability retirement benefits and duty-related disability retirement benefits.

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: 10-D-39, 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. 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-147, 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 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-76, to reject the Hearing Officer's Report to approve disability retirement benefits, and to instead, issue a Board of Trustees Order, denying claimant's application for disability retirement benefits.

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: 12-D-126, to accept the Order of Dismissal and to dismiss claimant's appeal of her denial for disability retirement benefits, at the claimant's own request.

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: 12-D-134, to accept the Order of Dismissal and to dismiss claimant's application for disability retirement benefits, at the claimant's own request.

There being no further business, the meeting was adjourned at 11:14 A.M., E.T. to meet on October 24, 2013 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 10/24/13
Tracy Chambers Date
Recording Secretary

I, Susan Smith, do certify that the Minutes of the meeting held on September 30, 2013 were approved by the Disability Appeals Committee on October 24, 2013.

Susan Smith 10-24-13
Susan Smith, Chair Date
Disability Appeals Committee

I, Deborah Crocker, was present at the September 30, 2013 Disability Appeals Committee meeting, and have reviewed the minutes for form, content and legality.

Deborah Crocker 10/24/13
Deborah Crocker Date
KRS Staff Attorney