

**MINUTES
OF
DISABILITY APPEALS COMMITTEE
February 15, 2013 at 1:00 P.M. E.T.
Board Room
Perimeter Park West, 1270 Louisville Road
Frankfort, Kentucky 40601**

At the meeting of the Disability Appeals Committee, held on February 15, 2013, the following members were present: Vince Lang, Chair, Susan Smith and Mary Hook, Proxy on behalf of Timothy Longmeyer.

In addition, those present were Charlene Haydon, KRS, Jennifer Jones, KRS, Deborah Crocker, KRS, and Deanna McDonald, Recording Secretary.

It was moved by Ms. Smith, seconded by Ms. Hook, and carried to approve the Minutes of the January 24, 2013 Disability Appeals Committee Meeting.

It was moved by Ms. Smith, seconded by Ms. Hook, and carried unanimously, that the Committee members having considered the contract and correspondence of Medical Examiner Dr. Roger Strunk, to terminate the contract of Dr. Strunk.

Mr. Lang noted the necessity of closed session for the purpose of reviewing the disability applications of Administrative Action Numbers: 11-D-98, 11-D-28, 11-D-79, 11-D-90, 11-D-82, 11-D-35, 12-D-02, 11-D-150, 10-D-106, 11-D-88, 11-D-123, 11-D-77, 11-D-61 and 11-D-119.

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

It was moved by Ms. Hook, seconded by Ms. Smith, 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-98, to remand this case for the hearing officer to determine the Claimant's eligibility for duty-related disability retirement benefits pursuant to KRS 61.621 only.

It was moved by Ms. Smith, seconded by Ms. Hook, and carried unanimously, that the Committee members having considered the record, including the arguments made by the parties in the case of Administrative Action Number: 11-D-28, to amend the previous remand order and remands the case for additional Findings of Fact and Conclusions of Law concerning Claimant's condition of Lyme disease. Specifically, pursuant to KRS 13B.120(2) and KRS 61.665(2)(j), the Board orders Claimant to undergo definitive diagnostic testing for Lyme disease at the office of her general practitioner, the bill to be forwarded to Retirement Systems for payment. The Board further orders the Systems to schedule an evaluation of the Claimant's cognitive function as the Systems' expense. The parties may also submit any additional objective medical evidence relevant to her condition of Lyme disease not already included in the administrative record. Once the parties have submitted all additional medical evidence concerning Claimant's condition of Lyme disease, the hearing officer is hereby ordered to promptly schedule a Telephonic Status Conference with the parties to determine whether it is necessary for additional evidence to be taken at a second administrative hearing and/or for the parties to have the opportunity to submit additional briefs. Upon the close of the administrative record and, if determined to be necessary, the submission of additional briefs by the parties, the hearing officer is ordered to issue a Recommended Order on Remand including the additional findings specifically concerning Claimant's condition of Lyme disease.

It was moved by Ms. Hook, seconded by Ms. Smith, 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-79, to accept the Hearing Officer's Report, Findings of Fact, Conclusions of Law, and to approve the Claimant's application for disability retirement benefits, with review in two years. Approval is based upon the cumulative effect of the Claimant's rheumatoid arthritis and pulmonary fibrosis.

It was moved by Ms. Smith, 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-90, to accept the Hearing Officer's Report, Findings of Fact, Conclusions of Law, as modified in the Board of Trustees Final Order and to deny the Claimant's application for disability retirement benefits.

It was moved by Ms. Smith, 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: 11-D-82, to accept the Hearing Officer's Report, Findings of Fact, Conclusions of Law, and to deny the Claimant's application for disability retirement benefits. Ms. Hook abstained.

It was moved by Ms. Hook, seconded by Ms. Smith, 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-35, 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 Ms. Smith, 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-02, to accept the Hearing Officer's Report, Findings of Fact, Conclusions of Law, as modified in the Board of Trustees Final Order and to deny the Claimant's application for disability retirement benefits.

It was moved by Ms. Hook, seconded by Ms. Smith, 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-150, to accept the Hearing Officer's Report, Findings of Fact, Conclusions of Law, as modified in the Board of Trustees Final Order and to deny the Claimant's application for disability retirement benefits.

It was moved by Ms. Smith, 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-106, to accept the Hearing Officer's Report, Findings of Fact, Conclusions of Law, as modified in the Board of Trustees Final Order and to approve the Claimant's application for disability retirement benefits with review in five years. Approval is based solely upon the Claimant's shoulder conditions that limit her ability to perform overhead work.

It was moved by Ms. Hook, seconded by Ms. Smith, 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-88, to accept the Hearing Officer's Report, Findings of Fact, Conclusions of Law, as modified in the Board of Trustees Final Order and to approve the Claimant's application for disability retirement benefits with review in five years. Approval is based upon the cumulative effect of the Claimant's degenerative disc disease, chronic back pain, depression, anxiety, and post-traumatic stress disorder (PTSD).

It was moved by Ms. Smith, 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-123, to accept the Hearing Officer's Report, Findings of Fact, Conclusions of Law, and to deny the Claimant's application for disability retirement benefits. The Board also moves to deny Claimant's Motion to File Late Exceptions, as it is not empowered to enlarge a statutorily imposed deadline.

It was moved by Ms. Smith, 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-77, to remand this case for the hearing officer to determine whether the doctrine of administrative res judicata applies to this claim and to correct the hearing date on page 3 of the Recommended Order and promptly issue a Recommended Order on Remand without further delay.

It was moved by Ms. Smith, 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-61, to accept the Order of Dismissal and to dismiss both Claimant's application for disability retirement benefits and application for duty-related disability retirement benefits.

It was moved by Ms. Hook, seconded by Ms. Smith, 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-119, to accept the Order of Dismissal and to dismiss Claimant's application for disability retirement benefits.

There being no further business, the meeting was adjourned at 1:57 P.M., E.T. to meet on March 11, 2013 at 9:00 A.M., E.T.

CERTIFICATION

I, Deanna McDonald, 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.

Deanna McDonald 3/13/13
Deanna McDonald Date
Recording Secretary

I, Vince Lang, do certify that the Minutes of the meeting held on February 15, 2013 were approved by the Disability Appeals Committee on March 11, 2013.

Vince Lang 3-13-13
Vince Lang, Chair Date
Disability Appeals Committee

I, Deborah Crocker, was present at the February 15, 2013 Disability Appeals Committee meeting, and have reviewed the minutes for form, content and legality.

Deborah Crocker 3/13/13
Deborah Crocker Date
KRS Staff Attorney