

ATTACHMENT C
RESPONDENT'S ARGUMENT

COVER LETTER

To: Cheree Swedensky, Assistant to the Board

CalPERS Executive Office

Fax: (916) 795-1109-~~AD~~

3972

From: Jo Tenner, *Jo Tenner*

Re: Respondent Tenner's Argument

Ph.#

Received

JUN 8 2015

CalPERS Board Unit

**BEFORE THE
PUBLIC EMPLOYEES' RETIREMENT SYSTEM
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues of:

JO TENNER,

Case No. 2012-0700

Respondent,

OAH No. 2014070409

and

CITY OF COMPTON,

Respondent.

RESPONDENT JO TENNER ARGUMENT, (Respondent Tenner)

Industrial Disability Injuries due to Toxic Exposure are often times overlooked due initial unforeseen damages and the chemical inside the body festers until vital organs weakens or destroyed. Toxic exposure attacks weaken parts of the body. The damage is not seen or may not present itself for years while destroying your internal organs. Unlike a broken leg or arm you can see the damage. It's been 15 years and that is why I am Requesting the Board to consider the "Decision as Precedent" in order to assist others in decision making capacity for future appeals.

Complainant CalPERS seeks to deny Respondent Tenner's disability retirement application on the grounds that the medical evidence does not support her claim. However, Complainant CalPERS Medical Reports:

Exhibit #16 Medical Report from Respondent Tenner's Primary Doctor dated May 2, 2011. Questioned Respondent Tenner's Incapacity: (1) Is the member currently substantially incapacitated reply, Yes. (2) Will the incapacity be permanent? Reply Yes.

Respondent City of Compton, (Respondent Compton) continues to deny that Industrial Disability at the WorkSource Center located in Compton, CA. The possibilities that Respondent Compton disclosed to staff gives cause to the existence of toxic exposure does it not exist? The correspondence that I submitted at the Office of Administrative R Hearing (OAH), on March 3, 2015, showing scheduled dates of various Air Monitoring and Groundwater Monitoring was not relevant but considered as hearsay?

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Respondent Tenner had been employed by Respondent Compton since 1993. Complaints of foul odors were constant. Respondent Tenner reported this to the Director and staff because all of us were at risk and the people we serviced including the Public became concerned. Some people would come over to check the bathrooms as if it was a sewage problem.

Respondent Tenner was not informed of the conditions at the center; Toxic Fumes, Groundwater Monitoring, Remediation Unit Removal, Underground Gasoline Tanks, Undemeath Respondent Tenner's Desk, Ramps throughout the Building structure; the Driveways all over the property. Respondent Compton has a duty to protect their Employee's and the Public Service for which we serve from any possible of risk damaging factors whether Toxic Exposures or any other dangers that may be encountered.

May, 2000 the Fire Chief and /or City Manager or Risk Management came to inform staff of the possibility of some "Underground Tanks" being improperly sealed. They informed us that we are mandated to have a physical by their company doctors. The application for Workers Compensation was filed by my Attorney Mark Tobin, at that time May, 2000 until 2004, and referred to an associate. I was referred to Dr. Brautbar, an experience expert specialist in the Toxicology. He has been a leader training others in this field and many environmental studies. Dr. Brautbar determined that according to the test preformed and his professional examination that I have encountered toxic exposure existed according to the list of toxic chemicals for which the Respondent Compton provided to staff. The possibilities have been proven but ignored. Respondent Compton continues to turn their turn over Attorneys one after another causing additional exams, depositions and over and over again adding intentional insult to my injuries. If I didn't respond I lose the Case. However, Respondent Compton did not show at the Administrative Hearing on March 3, 2015.

Respondent Tenner health continues to worsen having my daughter to assist me. I am a single Mother and grandmother. Respondent Tenner continued to work as long as she could to avoid becoming displaced, food, shelter, and that's exactly what happened. So I went to the Social Security office to find out about other choices. While waiting for Social Security Administration determination took such a long I decided to go to CalPERS'.

Respondent Tenner went to CalPERS' seeking assistance in making her decision. I informed the Representative that I had ill for a long period of time under doctors care, and I was not able to return to work. I had exhausted everything. I informed her that I had an existing Workers Compensation claim filed since May, 2000 that had been to no avail; no payments or anything, and I am not able to return to work. Respondent CalPERS Staff informed of the available options, Service Years Retirement pending Industrial Disability, Disable or Regular Retirement. Respondent Tenner decided on service year's retirement pending Industrial Disability. However, Industrial Disability to this date is still pending.

The Respondent Compton was informed by CalPERS of Respondent Tenner's election to choose Service Years Retirement pending Industrial Disability application. The City of Compton offered golden handshakes for which I may be qualified for. Respondent Compton approved the golden handshake and that is how the June, 2010 retirement date changed from CalPERS dates. I could elect an earlier date and I was not unable to continue working

The Social Security Administration sent a letter dated September 16, 2011, stating that they've decided that you meet the medical requirements for disability benefits and that according to the Social Security disability rules and regulations began October 1, 2010. However, the final determination letter was received on April 14, 2012, Social Security final determination that I am disabled under Social Security law as of October 1, 2010. Your eligibility for a period of disability is based at least partly on your "Government Employment". Doctors and other trained personnel decided that you are disabled. And we realize that your health may not improve.

As a new employee with the Respondent Compton Respondent Tenner was not aware of whom, what or where people worked. However, she assumed that they people monitored the groundwater worked for the City of Compton. Respondent Tenner doesn't recall any messages informing the Public that they were entering a toxic environment. They were from the Air Quality Control Agency. The Edison Company owned the property which was assumed to be responsible for the hazardous waste cleanup.

However, when she was hired she noticed people opening ground Wells. A hose of sort pumped ran releasing a watery substance which released very foul odors, and the procedure generated a computerized report that was being captured in the Annex. I had to travel daily back and forth through the fumes to get to the main office.

I'm not sure how far away the Wells were. However, years later I discovered there were approximately 40 or more Wells and/or Tanks on the outside and underneath the Main Office, (i.e. underneath my desk and underneath Ramps throughout the building and possibly underneath the Annex. The Main Office is where everyone checked in and out. The Annex serviced the Summer Youth Programs. The year-round Adult and Dislocated programs were serviced in the Main Office. The Driveway separated the two buildings and the groundwater was released and ran down the middle of the driveway. The fumes were trapped and doors had to be opened to try and force the fumes out because windows would not open in the Annex.

The opportunity to become a One Stop Center required specific alterations and renovations to meet approved WorkSource Certification I wasn't aware of what was causing me to be sick and sometimes I would have to leave work. One day when I returned from sick leave, the renovation had already started. My desk and everything was left open and unprotected.

The lobby flooring had been excavated to put in the One Stop logo. The dust was so thick sick I had to leave dust over my desk, there were no fans, no masks, were provided. Respondent Tenner was expected to clean her own area; all sort of dust, fumes improper oxygen until she had to leave. Respondent Tenner believes that's when she had to go to the hospital.

Respondent Tenner had Surgery in 2000 for which the doctor expressed an urgency of a must have. He informed her that a complete hysterectomy was necessary due to A-Typical cells (cancerous cells) appeared causing excessive bleeding and extended my menstrual cycle.

Respondent Tenner became anemic for which she never had a problem with before. The Doctor informed her that the surgery was a must and she did not have an option. She asked the doctor if she could collect blood for her surgery in case she needed it. He replied that she didn't have enough blood to give and he had to work really fast to avoid losing the blood that she did have to avoid a transfusion.

Respondent Tenner had newspaper articles entitled: Respondent Compton area air quality called the "worst in the nation", By Gene C. Johnson Sr. Staff writer. This statement was made by a South Coast Air Quality Management District executive during a March 27 town hall meeting in the City of Compton. "There's

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no question about that" said Pom Pom Ganguli, AQMD Assistant Deputy Executive Officer of Public Affairs.

Respondent City of Compton Toxic Fumes affected Ralph Bunch Elementary School located behind 700 N. Bulls Road (where I was employed) that left dozens of teachers and students in surrounding schools hospitalized last September, 2007 -09 the year is not shown on the article. But I believe it's the Compton Bulletin.

A Town Hall Meeting was held on "Cleaning The Air to Breathe..." scheduled for August 15, 2007-09 I have memos dated November 4, 2009 scheduled work for Friday November6; November16 scheduled work for Tuesday, November 17, 2009 between the hours of 7:30 am – 5:00 pm Ground Water Monitoring and Remediation Unit Removal, and the white trailer on east side of the annex building. (Considered Hearsay)?

FACTUAL FINDINGS

Social Security Notice of Award Dated April 14, 2012.

Respondent Tenner's page 6 awarded Total Disability as of October 1, 2010.

Complainant's' Exhibit 16 is Respondent Tenner's Primary Doctors report should be admitted as a Creditable Medical Report.

Respondent Tenner seeks to show that the Complainant CalPERS Medical Exhibit #16 showed that Respondent is incapacitated by Dr. Wong; Respondent Tenner's Primary Physician is more familiar with her medical condition.

Social Security Administration Disability Award notification letter awarded Disability partly due to her Government Employment and they realize that it may not improve Awarded as of October 1, 2010.

Legal Conclusions based on the Government Code Section base Respondent Tenner is permanently disabled and/or incapacitated from the performance of her duties as a Case Manager for Respondent Compton. If disability is found to exist, any dispute as to whether the disability is industrial or nonindustrial will be resolved pursuant to

Contributing to Solutions Considered for resolving other issues

That affects People Lives. God Bless all of Us back to Good Health...

I sincerely Pray that this may be resolve in my favor. Thanking you in advance.

Page 6 is a copy of the Social Security Administration Award Letter if it is accepted.

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Social Security Administration
Retirement, Survivors, and Disability Insurance
Notice of Award

Mid-America Program
Service Center
601 East Twelfth Street
Kansas City, Missouri 64106-2817
Date: April 14, 2012
Claim Number: ~~400 22 522 22~~

0000018 CTPMDS 1A 0.850
JO L TENNER
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We have determined that you are disabled under Social Security law as of October 1, 2010. Your eligibility for a period of disability is based at least partly on your Government employment.

Although you cannot receive monthly Social Security disability checks, you will have Medicare health insurance protection starting March 2013 if you are still disabled and meet all other requirements then. Your Medicare card and information about those benefits will be sent to you about 3 months before Medicare entitlement begins.

Doctors and other trained personnel decided that you are disabled. And we realize that your health may not improve. But we must review all disability cases. Therefore, we will review your case in 5 to 7 years. We will send you a letter before we start the review. Based on that review, your Medicare will continue if you are still disabled, but will end if you are no longer disabled.

Meanwhile, during your waiting period for Medicare, you must promptly report the following to Social Security (and be sure to mention your claim number shown above):

Change of address - Important notices will be sent to you from time to time.

Return to work - Report if you have gone back to work or go back to work in the future whether or not with the government, or no matter how little you earn. You need to know about special rules that apply. For example, you may be eligible for a 9-month trial work period during which you can test your ability to work without affecting your future right to Medicare. However, you cannot have a trial work period if you had an earlier period of disability which ended within 60 months of when your present disability began.

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