



Agenda Item 8d

August 19, 2015

ITEM NAME: Proposed Decision After Remand – In the Matter of the Application for Industrial Disability Retirement of ROBERT R. RUHR, Respondent, and CALIFORNIA DEPARTMENT OF CORRECTIONS CENTINELA STATE PRISON, Respondent.

PROGRAM: Benefit Services Division

ITEM TYPE: Action

PARTIES' POSITIONS

Staff argues that the Board of Administration should adopt the Proposed Decision After Remand.

Respondent Robert R. Ruhr (Respondent Ruhr) argues that the Board of Administration should decline to adopt the Proposed Decision After Remand.

STRATEGIC PLAN

This item is not a specific product of either the Strategic or Annual Plans. The determination of administrative appeals is a power reserved to the Board of Administration.

PROCEDURAL SUMMARY

Respondent Ruhr submitted an application for Service Pending Industrial Disability Retirement to CalPERS. The application was incomplete and cancelled by CalPERS. CalPERS provided Respondent Ruhr with a second application. CalPERS staff determined that the second application from Respondent Ruhr was incomplete and not timely. Respondent Ruhr appealed this determination and the matter was heard by the Office of Administrative Hearings on December 3, 2014. A Proposed Decision was issued on December 31, 2014, denying the appeal. At its meeting on February 19, 2015, the Board remanded this matter to the Office of Administrative Hearings. A Proposed Decision After Remand was issued on June 8, 2015, affirming the Proposed Decision and denying the appeal.

ALTERNATIVES

- A. For use if the Board decides to adopt the Proposed Decision After Remand as its own Decision:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System hereby adopts as its own Decision the Proposed Decision After Remand dated June 8, 2015, concerning the application of Robert R. Ruhr; RESOLVED FURTHER that this Board Decision shall be effective 30 days following mailing of the Decision.

- B. For use if the Board decides not to adopt the Proposed Decision After Remand, and to decide the case upon the record:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, after consideration of the Proposed Decision After Remand dated June 8, 2015, concerning the application of Robert R. Ruhr, hereby rejects the Proposed Decision After Remand and determines to decide the matter itself, based upon the record produced before the Administrative Law Judge and such additional evidence and arguments that are presented by the parties and accepted by the Board; RESOLVED FURTHER that the Board's Decision shall be made after notice is given to all parties.

- C. For use if the Board decides to remand the matter back to the Office of Administrative Hearings for the taking of further evidence:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, after consideration of the Proposed Decision After Remand dated June 8, 2015, concerning the application of Robert R. Ruhr, hereby rejects the Proposed Decision After Remand and refers the matter back to the Administrative Law Judge for the taking of additional evidence as specified by the Board at its meeting.

- D. Precedential Nature of Decision (two alternatives; either may be used):

1. For use if the Board wants further argument on the issue of whether to designate its Decision as precedential:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System requests the parties in the matter concerning the application of Robert R. Ruhr, as well as interested parties, to submit written argument regarding whether the Board's Decision in this matter should be designated as precedential, and that the Board will consider the issue whether to designate its Decision as precedential at a time to be determined.

2. For use if the Board decides to designate its Decision as precedential, without further argument from the parties:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, hereby designates as precedential its Decision concerning the application of Robert R. Ruhr.

BUDGET AND FISCAL IMPACTS: Not applicable

ATTACHMENTS

- Attachment A: Proposed Decision After Remand
- Attachment B: Staff's Argument
- Attachment C: Respondent(s) Argument(s)

DONNA RAMEL LUM
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Customer Services and Support