

ATTACHMENT B
STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Rebecca Gillmore (Respondent Gillmore) was employed by the Conejo Recreation and Park District as a Registration/Publicity Coordinator and is a miscellaneous member of CalPERS.

Respondent Gillmore submitted an application for disability retirement on the basis of neurologic (back and neck radiculopathy), rheumatologic (arthritis and fatigue), and psychological (stress) conditions.

CalPERS reviewed written descriptions of Respondent Gillmore's job duties and relevant medical reports submitted by Respondent Gillmore. CalPERS also sent Respondent Gillmore for Independent Medical Examinations (IME) with Neurologist, Robert Schorr, M.D., Psychiatrist, Stephen Wilson, M.D., and Rheumatologist, David Silver, M.D.

Based on relevant medical evidence, CalPERS determined Respondent Gillmore was not substantially incapacitated from performance of her duties as a Registration/Publicity Coordinator at the time her application for disability retirement was filed.

Respondent Gillmore appealed CalPERS' determination and a hearing as to whether Respondent Gillmore is substantially incapacitated from performing her usual and customary job duties was held on September 22, 2015.

To be eligible for disability retirement, competent medical evidence must demonstrate the member is substantially incapacitated from performing the usual and customary duties of his or her position. Furthermore, the injury and condition that is the basis for the claimed disability must be permanent or of an extended and uncertain duration.

On February 13, 2015, CalPERS sent Respondent Gillmore a Notice of Hearing, informing her of the date, time and location of the hearing. The Notice of Hearing informed Respondent Gillmore of her right to object to the place of hearing and of her right to present any relevant evidence. Prior to the hearing, CalPERS provided Respondent Gillmore with a copy of the administrative hearing process pamphlet. CalPERS counsel also attempted to contact Respondent Gillmore to provide further information concerning the appeal process but was unable to reach her.

Respondent Gillmore was not present and was not represented at the hearing. At the hearing, CalPERS presented the IME reports of Dr. Schorr, Dr. Silver and Dr. Wilson.

The Administrative Law Judge (ALJ) concluded that Respondent Gillmore's appeal should be denied. The Proposed Decision is supported by the law and the facts. Staff argues that the Board adopt the Proposed Decision.

Because the Proposed Decision applies the law to the salient facts of this case, the risks of adopting the Proposed Decision are minimal. The member may file a motion with the Board under Government Code section 11520(c), requesting that, for good cause shown, the Decision be vacated and a new hearing be granted.

November 18, 2015

A handwritten signature in black ink, appearing to read 'Preet Kaur', is written over a horizontal line.

PREET KAUR
Senior Staff Attorney