

ATTACHMENT B
STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Simin Shirazi (Respondent Shirazi) was employed by the Department of Transportation as a Resident Engineer/Office Engineer and is a miscellaneous member of CalPERS.

Respondent Shirazi submitted an application for disability retirement on the basis of severe fibromyalgia, chronic fatigue and adrenal fatigue.

CalPERS reviewed written descriptions of Respondent Shirazi's job duties and relevant medical reports submitted by Respondent Shirazi. CalPERS also sent Respondent Shirazi for an Independent Medical Examination with rheumatologist, Douglas Haselwood, M.D. Based on relevant medical evidence, CalPERS determined Respondent Shirazi was not substantially incapacitated from performance of her duties as a Resident Engineer/Office Engineer at the time her application for disability retirement was filed.

Respondent Shirazi appealed CalPERS' determination and a hearing as to whether Respondent Shirazi is substantially incapacitated from performing her usual and customary job duties was held on September 1 and 2, 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 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.

Prior to the hearing, CalPERS explained the hearing process to Respondent Shirazi and the need to support her case with witnesses and documents. CalPERS provided Respondent Shirazi with a copy of the administrative hearing process pamphlet. CalPERS answered Respondent Shirazi's questions and clarified how to obtain further information on the process.

Respondent Shirazi testified at the hearing regarding her job duties and her inability to perform her usual and customary job duties due to severe pain and physical limitations. Respondent Shirazi testified concerning her medical conditions and the medications she is prescribed due to the medical conditions. Respondent Shirazi offered further medical reports from her treating physicians to substantiate her claims.

Respondent Shirazi presented the testimony of Dr. Ramin Yavrom, her neighbor of two years and retired chiropractor. Dr. Yavrom testified regarding his observations of Respondent Shirazi and provided his opinion concerning the medical reports. The Administrative Law Judge (ALJ) concluded that Dr. Yavrom did not qualify as an expert witness because he was unlicensed and did not examine Respondent Shirazi.

Respondent Shirazi also presented the testimony of her husband, her niece, and Dr. Yavrom's wife.

Dr. Haselwood testified regarding his examination of Respondent Shirazi and the diagnosis. Dr. Haselwood opined that Respondent Shirazi was not restricted from performing any job functions from a rheumatological point of view.

The ALJ concluded that Respondent Shirazi'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 Writ Petition in Superior Court seeking to overturn the Decision of the Board.

November 18, 2015



PREET KAUR
Senior Staff Attorney