

ATTACHMENT B
STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Respondent Stacy Bridges (Respondent) was approved for industrial disability retirement on June 26, 2006, based on anxiety, depression and stress caused by her working environment at her employer Respondent California Highway Patrol, Bakersfield (CHP). On January 23, 2014, CalPERS determined that Respondent was no longer disabled from the performance of her duties as a Public Safety Dispatcher II (Dispatcher II) with the CHP, and that she should be reinstated. Respondent appealed. The hearing was completed over two days, June 23, 2015 and September 30, 2015.

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

Notice of the initial date of hearing (June 23, 2015) was sent certified mail, return receipt received, to Respondent over six months in advance of the hearing. Nevertheless, Respondent called CalPERS counsel the day before the hearing claiming that she never received notice of the hearing. CalPERS counsel informed Respondent that the hearing was the next day, and that she had signed the certified mail receipt. Respondent failed to appear in person for the hearing. CalPERS counsel called Respondent from court on the date of hearing, and Respondent appeared by telephone. The hearing was continued to allow Respondent to make a personal appearance and present evidence. On the second day of hearing (September 30, 2015), Respondent appeared and presented documentary and oral evidence.

As part of CalPERS' review of her medical condition, Respondent was sent for an Independent Medical Examination (IME) to board certified Psychiatrist Dr. Edward Ritvo. Dr. Ritvo reviewed records including her job descriptions; interviewed Respondent and obtained her chief complaint and histories; and conducted a mental status examination. He prepared an IME report, in which he reached diagnostic impressions and answered specific questions.

Dr. Ritvo concluded that Respondent did not have any psychiatric disorder, was experiencing moderate psychosocial stressors present in daily life, and had normal functioning. He found nothing unusual in his examination of Respondent. His psychiatric diagnosis was there was nothing that precluded Respondent from performing any of the duties of a Dispatcher II.

At the hearing, Dr. Ritvo testified to his examination and report. Dr. Ritvo's medical opinion is that Respondent is not substantially incapacitated to perform the duties of Dispatcher II.

At hearing, Respondent testified that she did not want to return to work at CHP because the work environment had not changed in the ten years she was away on disability

retirement. She suggested that her symptoms would return if she was required to resume work at CHP. Respondent admitted that she is doing fine now, and does not have any symptoms of stress and anxiety. Her depression improved soon after she stopped work, and she has not been depressed for several years. She thought she could return to work as Dispatcher II at a different agency.

The Administrative Law Judge (ALJ) found that CalPERS bears the burden to show by a preponderance of the evidence (based on competent medical evidence) that Respondent was no longer substantially incapacitated and should be involuntarily reinstated to her former position (Govt. Code §§ 21191, 21192). The ALJ found that CalPERS met its burden of proof, by a preponderance of the evidence, that Respondent is no longer substantially incapacitated for the performance of her usual and customary duties as a Dispatcher II with CHP. The ALJ further found that Respondent provided no objective, competent medical evidence to support her claim of continued disability.

The ALJ found that the medical evidence shows Respondent's temporary disability was recognized by CalPERS' initial grant of industrial disability retirement, but no longer exists. The ALJ noted that Respondent admits that she no longer has any symptoms of stress, anxiety and depression. She did not show she was under the care of a medical professional or, is taking any prescribed medications for a psychological condition. Respondent's assertion of the poor work environment at CHP is speculative, and does not establish by competent medical evidence that she is substantially incapacitated by a psychological condition.

The ALJ concluded that Respondent's appeal should be denied and that she should be reinstated to her former usual job duties as a Dispatcher II for CHP. 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.

December 16, 2015


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