



Board of Administration Agenda Item 11a

May 18, 2016

ITEM NAME: Further Consideration – In the Matter of the Appeal Regarding Death Benefits Payable Upon the Death of GRANTLAND LEE JOHNSON by LEE TURNER JOHNSON, Respondent.

ITEM TYPE: Action

Parties' Positions

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

Respondent Lee Turner Johnson (Respondent Turner Johnson) argues that the Board of Administration should decline to adopt the Proposed Decision.

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

Grantland Lee Johnson (Decedent) retired for service on November 16, 2003. At the time of his retirement, Decedent elected the Option 2 allowance, and designated his then wife, Charlot Bolton, as his life option beneficiary. On August 7, 2014, Decedent submitted an incomplete Application to Modify Option and/or Life Option Beneficiary, naming Respondent Turner Johnson as the new beneficiary. The application was incomplete because Decedent failed to submit an endorsed-filed court order awarding him the entire interest in his CalPERS pension benefits with the application. Decedent passed away on August 19, 2014, prior to CalPERS sending him an election form and retirement estimates he had requested. On September 15, 2014, Respondent Turner Johnson submitted an Application for Retired-Member/Payee Survivor Benefits listing herself as Decedent's spouse. On December 31, 2014, the family law court entered a judgment awarding Decedent his CalPERS pension in its entirety. In 2015, CalPERS determined that Respondent Turner Johnson was not entitled to Decedent's lifetime Option 2 benefits or continued enrollment in employer-sponsored health insurance and dental insurance through CalPERS.

Respondent Turner Johnson appealed this determination and the matter was heard by the Office of Administrative Hearings on October 6, 2015. A Proposed Decision was issued on January 8, 2016, denying Respondent Turner Johnson's appeal.

At its March 16, 2016, meeting, the Board of Administration requested a full Board Hearing in connection with the appeal of Respondent Lee Turner. The Board of Administration considered

the Proposed Decision of the Administrative Law Judge (ALJ) and concluded not to adopt it, but instead to decide the matter itself on the record after affording the parties the opportunity for further argument. The complete hearing record is attached, along with any written arguments submitted by the parties. Additionally, all parties have been notified of their right to present oral argument at the meeting on May 18, 2016.

ALTERNATIVES

- A. For use if the Board decides not to adopt the Proposed Decision, and to decide the case upon the record.

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, after reviewing the record produced before the Administrative Law Judge and considering written and oral argument presented by the parties, hereby determines to adopt its own decision concerning the appeal of Lee Turner Johnson; RESOLVED FURTHER that this Board Decision shall be prepared in accordance with the Board's direction and presented to the Board for adoption at the Board's next monthly meeting.

- B. For use if the Board decides to adopt the Proposed Decision 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 dated January 8, 2016, concerning the appeal of Lee Turner Johnson; RESOLVED FURTHER that this Board's Decision shall be effective 30 days following mailing of the decision.

- C. 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 appeal of Lee Turner Johnson, 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 appeal of Lee Turner Johnson.

ATTACHMENTS

Attachment A: Staff's Argument

Attachment B: Respondent(s) Arguments(s)

Attachment C: Procedures for Full Hearings, Notice of Hearing and Proof of Service

Attachment D: March 16, 2016 Board Agenda Item

Attachment E: Transcripts of Administrative Hearing and Board of Administration Meeting

Attachment F: CalPERS Exhibits

Attachment G: Respondent's Exhibits

Attachment H: Additional Pleadings

DONNA RAMEL LUM
Deputy Executive Officer
Customer Services and Support