

ATTACHMENT B
STAFF'S ARGUMENT

STAFF'S ARGUMENT ADOPT THE PROPOSED DECISION

Reginald Bohanan (Respondent) was employed by the Department of Fish and Wildlife as a Staff Services Manager and is a miscellaneous member of CalPERS.

Respondent submitted an application for disability retirement on the basis of orthopedic conditions (lower back, left shoulder and legs).

CalPERS reviewed written descriptions of Respondent's job duties and relevant medical reports submitted by Respondent. CalPERS also sent Respondent for an Independent Medical Examination with orthopedist surgeon, Joseph Serra, M.D. Based on relevant medical evidence, CalPERS determined Respondent was not substantially incapacitated from performance of his duties as a Staff Services Manager at the time his application for disability retirement was filed.

Respondent appealed CalPERS' determination and a hearing as to whether Respondent is substantially incapacitated from performing his usual and customary job duties was held on January 21, 2016.

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 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 provided Respondent with a copy of the administrative hearing process pamphlet. At the hearing, Respondent was represented by counsel.

Ardavan Aslie, M.D., a board certified orthopedic surgeon testified on behalf of Respondent. Dr. Aslie opined that Respondent is substantially incapacitated from performing his usual job duties. After reviewing additional medical evidence, which was presented by Respondent on the day of the hearing, Dr. Serra changed his opinion and opined that Respondent is substantially incapacitated from performing his job duties.

The ALJ concluded that Respondent's appeal should be granted because both expert witnesses agreed that Respondent is substantially incapacitated from performing his job duties at the time of the disability application was filed. The Proposed Decision is supported by the law and the facts. Staff argues that the Board adopt the Proposed Decision.

Because the Proposed Decision is in favor of the Respondent and applies the law to the salient facts of this case, the risks of adopting the Proposed Decision are minimal. Since the Proposed Decision is in his favor, the member is not likely to file a Writ Petition in Superior Court seeking to overturn the Decision of the Board.

May 18, 2016

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

PREET KAUR
Senior Staff Attorney