

ATTACHMENT B
STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Armida Hernandez (Respondent) was employed by the Department of Corrections and Rehabilitation, California State Prison-Corcoran as a Clinical Social Worker, and is a safety member of CalPERS.

Respondent submitted an application for industrial disability retirement on the basis of orthopedic conditions caused by injuries to her lower back and wrists.

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 orthopedic surgeon G.B. Ha'Eri, M.D. Based on relevant medical evidence, CalPERS determined Respondent was not substantially incapacitated from performance of her duties as a Clinical Social Worker at the time her application for disability retirement was filed.

Respondent appealed CalPERS' determination and a hearing as to whether Respondent is substantially incapacitated from performing her usual and customary job duties was held on September 29, 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 provided Respondent with a copy of the administrative hearing process pamphlet. Respondent was represented by counsel at the hearing.

Respondent 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 testified concerning her medical conditions and the medications she is prescribed due to the medical conditions. Respondent offered further medical reports from her treating physicians to substantiate her claims.

Respondent presented the testimony of Dr. Reynaldo Garcia, her primary care physician. Dr. Garcia testified regarding his treatment of Respondent and provided his opinion concerning the medical reports.

Dr. Ha'eri testified at the hearing on behalf of CalPERS. Dr. Ha'eri opined that Respondent is not substantially incapacitated from performing her job duties.

The ALJ concluded that Respondent's appeal should be denied because Dr. Ha'eri's opinion, that Respondent is capable of performing her usual job duties, was well-founded, well supported, and fully and persuasively explained. Furthermore, the ALJ

found Respondent was not credible. 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.



PREET KAUR
Senior Staff Attorney