



Board of Administration Agenda Item 8a

June 15, 2016

Item Name: Proposed Decision – In the Matter of the Appeal of the Decision Not to Accept the Late Application for Industrial Disability Retirement of MEDENE PRESLEY, Respondent, and DEPARTMENT OF CORRECTIONS CALIFORNIA STATE PRISON SOLANO, Respondent.

Program: Benefit Services Division

Item Type: Action

Parties' Positions

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

Respondent Medene Presley (respondent Presley) argues that the Board of Administration should 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

Respondent Presley submitted a service pending industrial disability retirement application in July, 2010 (2010 Application). CalPERS canceled the 2010 Application due to respondent Presley not submitting all of the necessary forms. Respondent Presley received service retirement benefits effective July 1, 2010. Respondent Presley submitted a second industrial disability retirement application in October, 2012 (2012 Application). CalPERS did not accept the 2012 Application due to the fact it was not submitted within six months of when respondent Presley knew, or should have known, that his 2010 Application was canceled. Respondent Presley appealed CalPERS determination to not accept the 2012 Application. The appeal of this matter was heard by the Office of Administrative Hearings on March 23, 2016. A Proposed Decision was issued on April 11, 2016, granting respondent Presley's appeal, requiring CalPERS to accept respondent Presley's 2012 Application, and review the application on the merits to determine whether respondent Presley should be granted industrial disability retirement.

Alternatives

A. 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

April 11, 2016, concerning the appeal of Medene Presley; RESOLVED FURTHER that this Board Decision shall be effective 30 days following mailing of the Decision.

- B. 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 consideration of the Proposed Decision dated April 11, 2016, concerning the appeal of Medene Presley, hereby rejects the Proposed Decision and determines to decide the matter itself, based upon the record produced before the Administrative Law Judge and such additional evidence and arguments that are presented by the parties and accepted by the Board; RESOLVED FURTHER that the Board's Decision shall be made after notice is given to all parties.

- C. For use if the Board decides to remand the matter back to the Office of Administrative Hearings for the taking of further evidence:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, after consideration of the Proposed Decision dated April 11, 2016, concerning the appeal of Medene Presley, hereby rejects the Proposed Decision and refers the matter back to the Administrative Law Judge for the taking of additional evidence as specified by the Board at its meeting.

- D. 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 Medene Presley, 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 Medene Presley.

Budget and Fiscal Impacts: Not applicable

Attachments

- Attachment A: Proposed Decision
- Attachment B: Staff's Argument
- Attachment C: Respondent(s) Argument(s)

DONNA RAMEL LUM
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Customer Services and Support