

ATTACHMENT B
STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Respondent Christopher Cisco (Respondent) applied for disability retirement based on an orthopedic condition (right ankle and foot) caused by stepping back into a hole around a storage drain while working for his employer Respondent Selma Unified School District (District). On March 18, 2015 CalPERS determined that Respondent was not disabled from the performance of his duties as a Groundsperson with the District. Respondent appealed. A hearing was completed on March 22, 2016.

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

As part of CalPERS' review of his medical condition, Respondent was sent for an Independent Medical Examination (IME) to Board Certified Orthopedic Surgeon Dr. Ghol Ha'Eri. Dr. Ha'Eri interviewed Respondent, obtained a personal and medical history, had Respondent complete a questionnaire, conducted a physical exam, and reviewed Respondent's medical records related to his orthopedic condition. He also reviewed Respondent's duty statement and physical requirements of his position of Groundsperson.

Dr. Ha'Eri diagnosed right ankle and foot sprain/strain and noted that Respondent had undergone a surgical debridement on his right ankle and foot. He noted that Respondent had recovered from this injury. Dr. Ha'Eri concluded that Respondent was not substantially incapacitated to perform his usual job duties as a Groundsperson. He found nothing unusual in his examination of Respondent.

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

Respondent did not call any health care providers to testify nor did he introduce any medical records, reports or opinions to establish that he was substantially incapacitated for the performance of his duties as a Groundsperson.

The Administrative Law Judge (ALJ) found that Respondent is not substantially incapacitated for the performance of his usual and customary duties as a Groundsperson with the District. The ALJ further found that Respondent provided no objective, competent medical evidence to support his claim of disability.

The ALJ concluded that Respondent's appeal should be denied. 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.

June 15, 2016



TERRI L. POPKES
Senior Staff Attorney