

ATTACHMENT B
STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Christa Arrona (Respondent Arrona) was employed by the California Institution for Women as a Vocational Nurse and is a safety member of CalPERS.

Respondent Arrona submitted an application for industrial disability retirement on the basis of orthopedic (neck, fingers, back, and pinched nerve) conditions.

CalPERS reviewed written descriptions of Respondent Arrona's job duties and relevant medical reports submitted by Respondent Arrona. CalPERS also sent Respondent Arrona for an Independent Medical Examination with Orthopedic Surgeon, James Fait, M.D. Based on relevant medical evidence, CalPERS determined Respondent Arrona was not substantially incapacitated from performance of her duties as a Vocational Nurse at the time her application for industrial disability retirement was filed.

Respondent Arrona appealed CalPERS' determination and a hearing as to whether Respondent Arrona is substantially incapacitated from performing her usual and customary job duties was held on June 14, 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 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 explained the hearing process to Respondent Arrona and the need to support her case with witnesses and documents. CalPERS provided Respondent Arrona with a copy of the administrative hearing process pamphlet. CalPERS answered Respondent Arrona's questions and clarified how to obtain further information on the process.

Respondent Arrona testified at the hearing regarding her job duties and her inability to perform her usual and customary job duties due to physical health issues. Respondent Arrona testified concerning her medical conditions and the limitations imposed by those health issues.

Dr. Fait testified regarding his examination of Respondent Arrona and the diagnosis. Dr. Fait opined that Respondent Arrona was not restricted from performing any job functions from an orthopedic point of view. Dr. Fait also discussed the medical reports authored by Respondent's Workers' Compensation physicians, who released her to work full duty without restrictions.

The ALJ concluded that Respondent Arrona's appeal should be denied because Respondent Arrona failed to provide competent medical evidence demonstrating she has a disability of permanent or extended duration. 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.

September 21, 2016



PREET KAUR
Senior Staff Attorney