

ATTACHMENT B
STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Respondent Stephen D. Rennie (Respondent Rennie) was employed by the County of Inyo (County) as a Sheriff's Corporal. By virtue of his employment, Respondent Rennie was a local safety member of CalPERS. On July 12, 2013, Respondent Rennie filed an application for Industrial Disability Retirement (IDR) claiming a psychological condition, post-traumatic stress disorder. CalPERS reviewed Respondent Rennie's application, responding to Respondent Rennie that his application could not be accepted due to the fact that the County had terminated his employment for cause on March 25, 2013. CalPERS determined that the application should be cancelled due to the *Haywood* line of decisions (*Haywood v. American River Fire Protection District* (1998) 67 Cal.App.4th 1292 (*Haywood*)), which established that IDR cannot be granted after termination from employment, except in very few situations. Respondent Rennie appealed that *Haywood* determination. A hearing was held on October 4, 2016.

The *Haywood* cases hold that if a member files an IDR application after that member was dismissed from employment for reasons which are not a result of his disability or a subterfuge by the employer to prevent a disability claim by the member, then CalPERS must reject that application for IDR. An employee must have an ongoing relationship with the employer which allows the employee to return to work, if the disability is abated, in order to be entitled to disability retirement status.

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

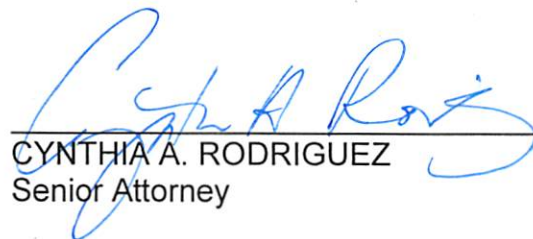
At the hearing, Respondent Rennie did not appear. Respondent Rennie offered no witnesses or documents in evidence. CalPERS submitted and the Administrative Law Judge (ALJ) received into evidence multiple documents, including the jurisdictional documents, the notice of intent as well as notice of actual termination, the report from the Skelly hearing, and evidence that Respondent Rennie was unable to perform the duties of a Sheriff's Corporal because of preclusions resulting from a criminal conviction, as well as evidence of Absence without Leave (AWOL). Findings from the unemployment insurance judicial proceedings were also received in evidence through Marlena Baker, the risk manager for the County, whom CalPERS called as a witness. These documents and witness statements established the lawful termination of Respondent Rennie unrelated to his subsequent claim of disability.

After considering all of the documentary evidence and testimony of witness, the ALJ found that Respondent Rennie failed to establish that he was entitled to file an application for IDR. Accordingly, the ALJ found that the weight of the competent evidence supported the conclusion that Respondent Rennie is ineligible to apply for an IDR.

The ALJ concluded that Respondent Rennie'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 motion with the Board under Government Code section 11520(c), requesting that, for good cause shown, the Decision be vacated and a new hearing be granted.

December 21, 2016



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