



Board of Administration Agenda Item 10a

March 15, 2017

ITEM NAME: Full Board Hearing Final Decision – In the Matter of the Cancellation of the Application for Industrial Disability Retirement of SHELDON K. SCARBER, Respondent, and CALIFORNIA HIGHWAY PATROL, Respondent.

PROGRAM: Benefit Services Division

ITEM TYPE: Action

ACTION REQUIRED: Adopt Final Decision

This matter came before the Board for a Full Board Hearing on February 15, 2017. At that time, the Board determined to adopt its own decision in the matter. Pursuant to the Board's decision, staff prepared the Final Decision (see Attachment B). The track changes version of the Final Decision is included with this agenda item (see Attachment A). This Decision must be adopted by the Board in order to become effective. Adoption cannot be delayed due to the "100-day rule" in the Administrative Procedure Act.

PROCEDURAL SUMMARY

The Board voted to take this matter up for a Full Board Hearing on the specific issue as to whether the Proposed Decision improperly applies principles of equity to grant Respondent Sheldon K. Scarber's appeal.

At its December 21, 2016, meeting, the Board of Administration requested a Full Board Hearing in connection with the appeal of Respondent Sheldon K. Scarber. The Board of Administration considered the Proposed Decision of the Administrative Law Judge and concluded not to adopt it, but instead to decide the matter itself on the record after affording the parties the opportunity for further argument.

On February 15, 2017, the Board conducted a Full Board Hearing on this matter. Respondent Sheldon K. Scarber appeared and presented oral argument. Counsel for CalPERS also presented oral argument. After considering the entire record as well as oral argument, the Board voted to modify and adopt the Proposed Decision, removing all references to the term "equity." Staff has revised the Proposed Decision according to this direction from the Board.

BOARD'S RESOLUTION

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System adopts Attachment B as the Final Decision of the Board concerning the appeal of respondent Sheldon K. Scarber; RESOLVED FURTHER that this Final Decision shall be effective immediately upon the Board's adoption.

ATTACHMENTS

Attachment A: Track Changes – Final Decision

Attachment B: Final Decision

DONNA RAMEL LUM
Deputy Executive Officer
Customer Services and Support

