
Program: Benefit Services Division

Item Type: Action

Parties’ Positions

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

Respondent Gary L. Fief’s (Respondent Fief) position is included in Attachment C, if any.

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 Fief submitted an application for industrial disability retirement based on an orthopedic (neck and back) condition. CalPERS denied the application. Respondent Fief appealed this determination and the matter was heard by the Office of Administrative Hearings on June 13, 2017. A Proposed Decision was issued on July 10, 2017, denying the appeal.

Alternatives

A. For use if the Board decides to modify and adopt the Proposed Decision as its own Decision:

RESOLVED, that the Board of Administration of the California Public Employees’ Retirement System, pursuant to Government Code section 11517 (c)(2)(C) which authorizes the Board to “make technical or other minor changes in the proposed decision,” hereby modifies the Proposed Decision by changing the word “spondylosis” to “spondylitis” in Paragraph 21, on Page six, in the second to last line of the first paragraph on Page nine, and in the quoted language directly under the first paragraph of Page nine; and by inserting the word “Industrial” before the words “disability retirement” in the caption and on pages one, two, three, ten, eleven and thirteen of the Proposed Decision; and hereby adopts as its own Decision the Proposed Decision dated July 10, 2017, as modified, concerning the appeal of Gary L. Fief; RESOLVED FURTHER that this Board Decision shall be effective 30 days following mailing of the Decision.
RESOLVED, that the Board of Administration of the California Public Employees’ Retirement System hereby adopts as its own Decision the Proposed Decision dated July 10, 2017, concerning the appeal of Gary L. Fief; RESOLVED FURTHER that this Board Decision shall be effective 30 days following mailing of the Decision.

RESOLVED, that the Board of Administration of the California Public Employees’ Retirement System, after consideration of the Proposed Decision dated July 10, 2017, concerning the appeal of Gary L. Fief, 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.

RESOLVED, that the Board of Administration of the California Public Employees’ Retirement System, after consideration of the Proposed Decision dated July 10, 2017, concerning the appeal of Gary L. Fief, 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.

RESOLVED, that the Board of Administration of the California Public Employees’ Retirement System requests the parties in the matter concerning the appeal of Gary L. Fief, 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.

RESOLVED, that the Board of Administration of the California Public Employees’ Retirement System, hereby designates as precedential its Decision concerning the appeal of Gary L. Fief.

Budget and Fiscal Impacts: Not applicable
Attachments

Attachment A: Proposed Decision
Attachment B: Staff’s Argument
Attachment C: Respondent’s Argument

DONNA RAMEL LUM
Deputy Executive Officer
Customer Services and Support