

ATTACHMENT B
STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Ohannes Bedrossian (Respondent) applied for disability retirement based on rheumatologic (body pain, tiredness, fatigue, and fibromyalgia) conditions. By virtue of his employment as a Transportation Engineer for Respondent California Department of Transportation (Respondent CalTrans), Respondent was a state member of CalPERS.

Respondent filed an application for service pending disability retirement on October 30, 2014 and has been receiving benefits since that time.

As part of CalPERS' review of Respondent's medical condition, Douglas Haselwood, M.D., a board-certified physician in Internal Medicine and Rheumatology, performed an Independent Medical Examination (IME). Dr. Haselwood interviewed Respondent, reviewed his work history and job descriptions, obtained a history of his past and present complaints, and reviewed his medical records. Dr. Haselwood opined that Respondent is capable of performing all of his job functions.

In order to be eligible for disability retirement, competent medical evidence must demonstrate that an individual is substantially incapacitated from performing the usual and customary duties of his or her position. The injury or condition which is the basis of the claimed disability must be permanent or of an extended duration which is expected to last at least 12 consecutive months or will result in death.

After reviewing all medical documentation and the IME report, CalPERS determined that Respondent was not substantially incapacitated from performing the duties of his position.

Respondent appealed this determination and exercised his right to a hearing before an Administrative Law Judge (ALJ) with the Office of Administrative Hearings (OAH). A hearing was held on July 9, 2019. Respondent represented himself at the hearing. Respondent CalTrans did not appear at the hearing.

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 clarified how to obtain further information on the process.

At the hearing, CalPERS offered documentary evidence, including Dr. Haselwood's IME report. Dr. Haselwood's medical opinion is that the medical evidence does not support Respondent's claim that he is incapacitated from performing his job duties. Dr. Haselwood noted that while Respondent may experience some discomfort, his

“perceived physical impairments are considerably based on self-reporting.” Therefore, Respondent is not substantially incapacitated under the Government Code definition.

Respondent testified on his own behalf that he is unable to perform the required duties of a Transportation Engineer because he had cancer and was suffering from fibromyalgia by 2014. Respondent testified that he began working part-time and eventually had to stop working because it was too difficult. Respondent did not call any physicians or other medical professionals to testify. Respondent did not offer any medical records from his treating physicians to support his appeal.

After considering all of the evidence introduced, as well as arguments by the parties, the ALJ denied Respondent’s appeal. The ALJ found that while Respondent may have experienced some discomfort and difficulty in performing his job duties as a Transportation Engineer, he failed to “offer sufficient, competent medical evidence to establish that, at the time he applied for disability retirement, he was substantially and permanently incapacitated from performing his usual duties of a [Transportation Engineer].”

The ALJ concluded that Respondent is not eligible for disability retirement.

For all the above reasons, staff argues that the Proposed Decision be adopted by the Board.

September 18, 2019

PREET KAUR
Senior Attorney