

ATTACHMENT B

STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Lynette Hollinshed (Respondent) applied for disability retirement based on psychiatric (depression and post-traumatic stress disorder) conditions. By virtue of employment as an Employment Program Representative for Respondent Employment Development Department (Respondent EDD), Respondent was a state miscellaneous member of CalPERS.

Respondent filed an application for service pending disability retirement on December 20, 2017 and has been receiving benefits since that time.

As part of CalPERS' review of Respondent's medical conditions, Roy L. Curry, M.D., a board-certified Psychiatrist, performed an Independent Medical Examination (IME). Dr. Roy L. Curry, M.D. interviewed Respondent, reviewed her work history and job descriptions, obtained a history of her past and present complaints, and reviewed her medical records. Dr. Roy L. Curry, M.D. opined that Respondent had dysthymia and mild anxiety; however, those conditions did not prevent Respondent from performing her job duties.

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 reports, CalPERS determined that Respondent was not substantially incapacitated from performing the duties of her position.

Respondent appealed this determination and exercised her right to a hearing before an Administrative Law Judge (ALJ) with the Office of Administrative Hearings (OAH). A hearing was held on January 3, 2020. Respondent represented herself at the hearing. Respondent EDD did not appear at the hearing.

Prior to the hearing, CalPERS explained the hearing process to Respondent and the need to support her 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, Dr. Roy L. Curry, M.D. testified in a manner consistent with his examination of Respondent and the IME report. Dr. Roy L. Curry, M.D.'s medical opinion is that Respondent does not suffer from post-traumatic stress disorder as she

did not experience a traumatic event at work. Dr. Curry testified that while Respondent suffers from dysthymia and mild anxiety, she can perform all of her job duties. Dr. Curry testified that while these medical conditions decreased Respondent's "efficiency and effectiveness," they are not disabling. Respondent is still capable of performing her job duties. Therefore, Respondent is not substantially incapacitated.

Respondent testified on her own behalf that her medical conditions prevent her from performing her job duties. Respondent also called LaVern Fields, her boyfriend, to testify on her behalf regarding her inability to perform her job. Respondent did not call any physicians or other medical professionals to testify. Respondent submitted medical records from her treating physicians to support her 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 CalPERS presented competent medical evidence demonstrating that Respondent is not substantially incapacitated from performing her job duties. The ALJ noted that while Respondent's testimony was persuasive that she feels depressed and anxious, she failed to present competent medical evidence demonstrating she is incapacitated from the performance of her job duties.

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.

March 18, 2020

Preet Kaur
Senior Attorney