

Road construction worker who inhaled fumes from new blacktop mixture was not injured as result of traumatic event entitling him to accidental disability retirement benefits. *Beverly v. Public Employee's Retirement System*, 92 N.J.A.R.2d (TYP) 41.

Fall from ground level cannot constitute great rush of force necessary to find traumatic event entitling claimant to accidental disability retirement benefits. *Keaton v. Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 37.

Hospital attendant's injury while assisting patient from bed to chair did not result from traumatic event qualifying her for accidental disability retirement benefits. *Siniscalchi v. Board of Trustees of the Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 30.

Supervisor's transfer threats did not constitute a traumatic event qualifying employee for accidental disability retirement benefits. *Fay v. Board of Trustees of the Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 27.

Maintenance worker's fall from three foot scaffolding was not traumatic event entitling him to accidental disability retirement benefits. *Minkus v. Board of Trustees of the Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 19.

School crossing guard's fall on sidewalk was not traumatic event in course of employment entitling her to accidental disability retirement benefits. *Osinga v. Board of Trustees, Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 16.

17:2-6.8 Option selection

If an applicant for an accidental disability retirement benefit is rejected for an accidental disability benefit but is approved by the Board for retirement, in accordance with N.J.A.C. 17:2-6.7, the applicant will be permitted within 30 days following Board approval of the retirement, to amend the option selection which the applicant made on the original accidental disability retirement application.

As amended, R.1971 d.71, effective May 18, 1971.

See: 3 N.J.R. 50(a), 3 N.J.R. 117(b).

Amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Neutralized gender references throughout.

17:2-6.9 Employer and employee notices

If an applicant for accidental disability retirement is found to be physically or mentally incapacitated for the performance of duty but is rejected for accidental disability retirement because the Board finds that the disability was not a direct result of a traumatic event occurring during and as a result of the performance of the applicant's regular or assigned duties and, if the applicant does not meet the minimum statutory requirements for any other type of retirement allowance, the System will notify both the member and the member's employer that the member was found to be physically or mentally incapacitated for the continued performance of duty, as was previously certified to the System.

Amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Neutralized gender references throughout, and deleted "by both the employee and his employer" and deleted a former second sentence at the end.

17:2-6.10 Involuntary disability application

(a) If an application for an accidental disability retirement benefit or for an ordinary disability retirement benefit is filed by an employer for one of their employees, the member will be promptly notified by letter that:

1. The member's employer has properly initiated a disability application signed by the Certifying Officer or other designated officer of the employer, on the member's behalf;

2. The member's employer has submitted a written statement as to the grounds for the employer's request for member's involuntary disability retirement and all available medical documentation;

3. The member has a period of 30 days to contest his or her involuntary retirement before the Board acts on the employer's application;

4. The member will be required to appear for an examination before a physician designated to conduct such an examination for the retirement system;

5. In the event the Board finds that the member is totally and permanently incapacitated for the performance of duty, the member shall be granted the maximum retirement allowance, (without option) payable under the statute, if the member does not file a completed "Application for Disability Retirement Allowance" setting forth the type of allowance the member desires, before the retirement goes into effect; and

6. In the event the Board finds that the member is not totally and permanently incapacitated for the performance of duty, the employer's application shall be disallowed and the employer shall be informed that the member should be returned to duty.

Amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

In (a), neutralized gender references throughout, rewrote 1 and 2, deleted a former 3, and recodified former 4 through 7 as 3 through 6.

17:2-6.11 Early retirement; reduction

(a) Retirement with 25 or more years of credited service before the first of the month in which a member attains age 60 shall be classified as "early" retirement.

(b) The statutory reduction of one quarter of one percent applies to each month prior to the month in which the member attains age 55 and for the month in which the member attains age 55 if the member's 55th birthday occurs after the 15th day of the month.

Amended by R.1974 d.230, effective August 19, 1974.

See: 6 N.J.R. 32(a), 6 N.J.R. 361(a).

Amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Rewrote the section.

Case Notes

Suspended employee who retired after completing court-ordered pretrial intervention program was not entitled to early retirement benefits. *Gulics & Simeone v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 228.

17:2-6.12 Service retirement; eligibility

A member becomes eligible for "Service" retirement on the 1st of the month following the member's 60th birthday. At the election of a member, if the member's 60th birthday falls on the first of a month, the retirement shall become effective on that date, provided the member files a timely retirement application pursuant to N.J.S.A. 43:15A-47a, and requests that date.

Amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Neutralized a gender reference in the first sentence, and added a second sentence.

Case Notes

Denial of petitioner's request for additional four years of creditable service was appropriate. *Alcaro v. Division of Pensions, the Alternate Benefit Program*, 94 N.J.A.R.2d (TYP) 124.

17:2-6.13 Disability retirant; annual medical examinations

(a) All disability retirants may be required to undergo a medical examination each year for at least five years or for good cause thereafter by a physician designated by the System, unless such examination requirement has been waived by the Board. Good cause means the receipt by the Board of creditable information that a member who is receiving a disability retirement allowance is no longer disabled.

(b) Failure on the part of a retirant to submit to the required medical examination shall result in the automatic suspension of the retirant's retirement allowance until the retirant submits to a medical examination.

Amended by R.1998 d.322, effective July 6, 1998.

See: 30 N.J.R. 1026(a), 30 N.J.R. 2514(a).

In (a), deleted " , under age 60," following "retirants" and substituted "at least five years or for good cause thereafter" for "a maximum period of five years" in the first sentence, and added a second sentence. Amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

In (a), deleted "as of the anniversary date of their retirement" following "System" in the first sentence; and in (b), neutralized gender references throughout.

Case Notes

Regulations adopted by the Board of Trustees of Teachers' Pension and Annuity Fund (TPAF) and Board of Trustees of Public Employees' Retirement System (PERS) which applied to all disability retirees, regardless of age, and allowed Boards to require physical examination for good cause after five years exceeded legislative requirements of statute, and thus, regulations were invalid. *New Jersey Education Association v. Board of Trustees, Public Employees' Retirement System*, 327 N.J.Super. 326, 744 A.2d 353 (N.J.Super.A.D. 2000).

Township not required to reinstate formerly disabled employee who resigned before applying for disability benefits. *Township of Dover v. Board of Trustees, Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 83.

17:2-6.14 Disability retirant; annual report (employment, earnings, test and adjustment)

(a) All disability retirants shall be required to file a report with the System which shall include copies of the retirant's IRS 1040 forms and W-2 forms and any other proofs of employment requested of a specific retirant indicating the type of employment they are engaged in, if any, and the gross earned income realized therefrom as of December 31 of each year.

1. Such report shall be filed with the System before the following April 30.

2. Failure on the part of the retirant to file a completed report with the System before April 30 shall result in the presentation of the retirant's case to the PERS Board of Trustees, who may impose penalties or suspend the retirant's entire retirement allowance for the period the report is in default.

(b) If a retirant reports employment and earnings, then the following tests shall be made by the System to ascertain:

1. If the retirant is engaged in a position subject to coverage by the System, the retirement allowance shall be canceled and the retirant shall be reenrolled in the System pursuant to N.J.S.A. 43:15A-44, effective as of the date of the retirant's appointment to such position. Any disability retirement benefits received after this date of appointment shall be refunded to the System.

2. If the retirant is engaged in employment and the gross earned income for the preceding calendar year exceeds the difference between the pension and the salary the retirant would have been receiving had the retirant continued to work for the former employer (normal increment steps and salary range revisions will be considered but no promotional assumptions will be made) an appropriate adjustment to the pension for the period will be made by such difference.

3. If it is found, on or after April 30, that gross earned income for the calendar year exceeded the difference between the pension and the salary of the retirant's former position and if the retirant does not refund the excess pension to the System within 30 days of notification of the difference, the pension portion of the retirement allowance shall be reduced, dollar for dollar, by the excess earnings. The Board of Trustees shall determine the length of time that the retirant's pension allowance will be reduced.

Amended by R.1998 d.323, effective July 6, 1998.

See: 30 N.J.R. 1026(b), 30 N.J.R. 2514(b).

Rewrote the section.

Amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Rewrote (b)3.

17:2-6.15 Disability retirements; filing after more than two years' discontinuance of service

(a) Following the filing of a disability retirement application, a vested member, who has not withdrawn his or her

contributions from the retirement system, and has discontinued service for more than two consecutive years, and who was otherwise eligible for disability retirement at the time service was discontinued, shall be approved to receive disability retirement benefits by the Board of Trustees, if: