

Repayment options clarified. Provisions of (a) deleted. New (a) added to permit repayment in full before retirement allowance is drawn, or repayment by retention of the benefits until the balance with interest is paid. New (b) added to permit members retiring on disability to follow (a) or continue the deductions in effect immediately before retirement. New (c) added, with conditions, to permit members to convert to disability retirement. Old (b) recodified to (d) and amended to clarify repayment upon death of retiree.

17:2-6.5 Willful negligence

(a) Willful negligence is defined as:

1. Deliberate act or deliberate failure to act; or,
2. Such conduct as evidences reckless indifference to safety; or,
3. Intoxication, operating as the proximate cause of injury.

17:2-6.6 Retirement credit

(a) A member shall receive credit toward retirement for any month or biweekly pay period in which a full normal deduction is received by the system.

(b) A member who appeals the suspension or termination of his or her employment and is awarded back pay for all or a portion of his or her employment for the period of such suspension or termination shall receive retirement credit for the period covered by the award, regardless of the amount of the back pay awarded, provided a full normal pension contribution is received from the member or deducted from the value of the award. The amount of the pension contribution will be determined by the provisions of the award. If the member receives full back pay, including normal salary increases, then the contribution will be computed on the base salaries that the employee would have earned for the reinstated suspended or terminated period. When the settlement is less than the full back pay, the pension contribution will be based upon the salary that the member was receiving for pension purposes prior to the suspension or termination of employment. In the event that the amount of back payment is insufficient to deduct the value of the normal pension contributions due, such contribution shall be paid by the member.

(c) It is the responsibility of the certifying officer to provide a letter attesting to the base salary or salaries to be used to compute pension contributions and to provide a copy of the resolution or legal document that details the terms of the settlement.

As amended, R.1974 d.230, effective August 19, 1974.
See: 6 N.J.R. 32(a), 6 N.J.R. 361(a).

As amended, R.1981 d.274, effective August 6, 1981.
See: 13 N.J.R. 244(f), 13 N.J.R. 525(b).

(b) added.

Amended by R.1991 d.98, effective February 19, 1991.
See: 22 N.J.R. 3321(a), 23 N.J.R. 417(a).

Amount of pension contribution clarified.

Case Notes

Pension credit; time of dishonorable employment with county. *Calvaliere v. Board of Trustees of the Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 178.

17:2-6.7 Disability determination

(a) A member for whom an application for accidental disability retirement allowance has been filed by the member, by his employer, or by one acting in behalf of the member, will be retired on an ordinary disability retirement allowance if the board finds that:

1. The member was under the age of 60 at the time of filing application for a disability retirement allowance; and
2. The member is physically or mentally incapacitated for the performance of duty; and
3. The member is not eligible for accidental disability since the incapacity is not a direct result of a traumatic event occurring during and as a result of the performance of his regular or assigned duties; and
4. The member meets the service requirement for ordinary disability.

Case Notes

To be eligible for accidental disability retirement benefits where disability involved combined effect of traumatic event and underlying disease, traumatic source must constitute the essential significant or substantial contributing cause of resultant disability; employee's slip and fall against automobile tailgate held a traumatic event; remand to Appellate Division to determine whether traumatic event was of such nature as to allow benefits eligibility under enunciated standard (citing former rule). *Korelnia v. Bd. of Trustees, Public Employees Retirement System*, 83 N.J. 163, 416 A.2d 308 (1980).

Ordinary disability retirement benefits granted bus driver who sustained shoulder injury after fall in parking lot. *Hessler v. Public Employees' Retirement System*, 97 N.J.A.R.2d (TYP) 13.

Bus driver who sustained lower back injury when stack of tires fell on him did not suffer traumatic event and thus was not entitled to accidental disability retirement benefits. *Pino v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 298.

Motor vehicle operator who sustained arm and shoulder injuries when van door malfunctioned, and who later reinjured her arm while maneuvering client's wheelchair, was not entitled to accidental disability retirement benefits; neither incident constituted qualifying traumatic event. *McDaniel v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 284.

Survivors of maintenance worker whose blood alcohol level was in excess of legal limit at time he died in work-related automobile collision could not recover accidental death benefits; employee who drives automobile while intoxicated is willfully negligent and thus ineligible to receive such benefits. *Komiskey v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 271.

Housing inspector who experienced chest pains after climbing eight flights of stairs did not suffer traumatic event, and thus was not eligible for accidental disability retirement benefits. *Cartagena v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 266.

Clerk who tripped and fell down flight of stairs failed to establish that injuries she suffered rendered her unable to perform her regular employment duties, and thus she was not eligible for accidental disability

ty retirement benefits. *Bonomo v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 261.

Injuries sustained by clerk stenographer when she fell over several boxes after being frightened by rat in workplace lunchroom were not caused by requisite "great rush of force or uncontrollable power," and thus clerk was not entitled to accidental disability retirement benefits. *Hunter v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 252.

Laborer who injured himself while attempting to lower entire man-hole casing by himself was not entitled to accidental disability retirement benefits; injury was not caused by requisite "great rush of force or uncontrollable power." *Tomasi v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 239.

Public works employee injured in slip and fall on bus steps did not suffer traumatic event entitling him to accidental disability retirement benefits. *Yodice v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 210.

Slipping on running board of van and lifting potted plants were not traumatic events for purposes of accidental disability retirement benefits. *Malvossi v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 179.

Accidental disability retirement benefits were properly denied to warehouseman whose disability resulted from willful negligence due to intoxication. *Dale v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 172.

Dispatcher who was hit in the head when file cabinet toppled over on her did not suffer traumatic event entitling her to accidental disability retirement benefits. *Scholl v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 150.

Injuries sustained in slow-moving automobile did not constitute traumatic event entitling claimant to accidental disability retirement benefits. *Fawcett v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 138.

Physical education teacher's collision with two opening doors was not traumatic event entitling her to accidental disability retirement benefits. *Kamal v. Teachers' Pension and Annuity Fund*, 96 N.J.A.R.2d (TYP) 124.

School employee permanently injured by slip and fall on icy steps did not experience traumatic event entitling him to accidental disability retirement benefits. *Winslow v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 122.

Sudden attack on police officer by three assailants constituted traumatic event entitling officer to award of accidental disability retirement benefits. *Tribuzio v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 114.

Employee's fall down staircase was not traumatic event entitling her to either accidental or ordinary disability benefits. *Rankin v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 98.

Carpenter who dropped block of wood on his own hand did not qualify for accidental disability benefits because injury did not result from traumatic event. *Powell v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 97.

Car seat shooting was not "traumatic event" for purposes of accidental disability retirement benefits. *Hall v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 89.

Dispatcher's fall from table was not traumatic event warranting award of accidental disability retirement benefits. *Zaranka v. PERS*, 96 N.J.A.R.2d (TYP) 76.

State Police officer was properly denied accidental disability retirement benefits for migraine condition which was not direct result of traumatic injury. *Chippendale v. State Police Retirement System*, 96 N.J.A.R.2d (TYP) 70.

School bus driver disabled by tendinitis and carpal tunnel syndrome caused by stress and strain of normal work effort was not entitled to accidental disability benefits. *Smith v. PERS*, 96 N.J.A.R.2d (TYP) 67.

Fall from chair was not traumatic event for purpose of awarding accidental disability benefits. *Eglow v. PERS*, 96 N.J.A.R.2d (TYP) 60.

Neck injury sustained when elevator fell one foot was not traumatic event warranting accidental disability retirement benefits. *Knoster v. PERS*, 96 N.J.A.R.2d (TYP) 53.

Developmental center employee's severe health problems entitled her to disability retirement allowance. *Hawkins v. PERS*, 96 N.J.A.R.2d (TYP) 46.

Bus driver not eligible for accidental disability retirement benefits when disabling knee injury not result of traumatic event. *Santana v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 16.

Injury to corrections officer's back, resulting from fall in which he was landed on by three other men, constituted traumatic event for purposes of accidental disability retirement benefit eligibility. *D'Ippolito v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 9.

Multiple dwelling inspector struck by falling door entitled to accidental disability retirement benefits. *Salerno v. Public Employees' Retirement System*, 95 N.J.A.R.2d (TYP) 11.

Public employee is not entitled to accidental disability retirement; three and one half foot fall did not constitute traumatic event. *Flores v. Public Employees' Retirement System*, 95 N.J.A.R.2d (TYP) 6.

Clerk typist who failed to prove that she was unemployable due to carpal tunnel impairment was denied ordinary disability retirement. *Morgan v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 212.

Failure to show that injuries were work related. *Catrambone v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 199.

Failure to prove chemical fumes at work place; accidental disability retirement. *Boychuk v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 193.

Denial of petitioner's application for accidental disability retirement allowance was appropriate. *Post v. Public Employees' Retirement System, Board of Trustees*, 94 N.J.A.R.2d (TYP) 122.

Diabetic employee was not entitled to accidental disability retirement benefits. *Morgan v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 95.

Epileptic employee suffering from recurrent; accidental disability retirement allowance. *Lojik v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 91.

Request for accidental disability retirement benefits; traumatic event. *Gilmore v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 89.

Disability benefits approved for school matron suffering arthritic changes. *Mirra v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 78.

Accidental disability retirement denied; "traumatic event". *Cook v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 76.

Employee failed to establish that he was permanently and totally disabled from performance of duties. *Weldon v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 68.

Accidental disability benefits; fall on staircase was not caused by a great rush of force or uncontrollable power. *Zech v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 45.

Back injury did not result from a traumatic event. *Ferro v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 42.

Rheumatoid arthritis; ordinary disability retirement. *Daggs v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 39.

Accidental disability retirement benefits were properly denied; "traumatic event". *Snead v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 36.

Petitioner who fell from a height of less than two feet was not eligible for accidental disability pension. *Snead v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 36.

Fall of less than two feet from a chair; accidental disability pension. *Snead v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 36.

Accidental disability retirement benefits properly denied; membership. *Donovan v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 33.

Denial of accidental disability retirement benefits was appropriate; employee was not member of PERS at time of accident. *Donovan v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 33.

Accidental disability retirement benefits denied; not member in Public Employees' Retirement System at time of accident. *Donovan v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 33.

Willful negligence precluded award of accidental disability pension benefits. *DeInnocentes v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 26.

Disability pension was properly denied. *Barnes v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 22.

Accidental disability retirement; injury not result from traumatic event. *Pannone v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 18.

Claim for accidental disability retirement did not involve "a great rush of force or uncontrollable power," and therefore was not a traumatic event. *Morgillo v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 13.

Claim for accidental disability retirement properly denied. *Hanuszak v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 10.

Ordinary disability retirement benefits denied. *Carcich v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 6.

Claim for accidental disability retirement benefits based on post-traumatic stress disorder properly denied. *Birch v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 1.

Employee's slip and fall did not constitute a "traumatic event". *Moore v. Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 338.

Worker who slipped and fell not entitled to accidental disability retirement benefits. *Collins v. Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 334.

Physical conditions of which employee complained, absent medical proof as to performance and capability, were insufficient to warrant ordinary disability retirement. *Willard v. Retirement System*, 93 N.J.A.R.2d (TYP) 306.

Accidental disability benefits were calculable from date of accident which led to retirement, rather than from last day of work. *Muscarella v. Retirement System*, 93 N.J.A.R.2d (TYP) 296.

Absent stress or strain from normal work effort, injury was not a traumatic event giving rise to accidental disability retirement. *Landau v. Retirement System*, 93 N.J.A.R.2d (TYP) 280.

Withdrawal of contributions from pension system operated as waiver of right to vested disability pension. *DeGraaff v. Retirement System*, 93 N.J.A.R.2d (TYP) 269.

Fall from prison bus was not traumatic event entitling correction officer to accidental disability benefits. *Crescenzo v. Retirement System*, 93 N.J.A.R.2d (TYP) 267.

Psychiatric worker experienced traumatic event warranting accidental disability benefits when caught in door by patient. *Reed v. Retirement System*, 93 N.J.A.R.2d (TYP) 258.

Attacks upon worker by youths at treatment center were traumatic events warranting accidental disability pension benefits. *Noonan v. Retirement System*, 93 N.J.A.R.2d (TYP) 254.

Accidental disability retirement allowance was not available absent evidence of causation and a traumatic event. *Davis v. Retirement System*, 93 N.J.A.R.2d (TYP) 243.

Back injury due to losing balance while loading heavy drums of cleaning fluid onto truck not result of traumatic event qualifying employee for accidental disability retirement benefits. *Fithian v. Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 213.

Eligibility for ordinary disability retirement benefits as result of psychiatric disability. *Kenerley v. Board of Trustees of the Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 185.

An X-ray technician injured by sudden movement of low-functioning patient was not entitled to accidental disability pension. *Peters v. Board of Trustees of the Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 159.

Being pulled onto table by patient not traumatic event qualifying X-ray technician for accidental disability retirement benefits. *Peters v. Board of Trustees of the Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 159.

Employee's handicap did not make ground level slip and fall traumatic event qualifying him for accidental disability retirement benefits. *Juchniewicz v. Board of Trustees, Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 137.

Major depression and generalized anxiety did not entitle housing manager to ordinary disability retirement benefits where manager showed improvement with antidepressant medication. *Cappucio v. Board of Trustees of the Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 98.

Worker hit by falling oven racks entitled to accidental disability retirement benefits. *Wagner v. Board of Trustees of the Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 75.

Psychiatric hospital worker slipped and fell on floor; thus, no traumatic event for accidental disability retirement purposes. *Brown v. Board of Trustees of the Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 61.

School custodian's neck and back injuries physically incapacitated him from performing his work, entitling him to ordinary disability retirement pension. *Rich v. Public Employees' Retirement System*. 93 N.J.A.R.2d (TYP) 34.

Slip and fall on mashed potatoes and lifting cases of milk not traumatic events so as to qualify employee for accidental disability retirement benefits. *Bodie v. Board of Trustees of the Public Employees' Retirement System*. 93 N.J.A.R.2d (TYP) 29.

Back injury sustained when jerked off balance by 300-pound psychiatric patient not traumatic event entitling X-ray technician to accidental disability retirement benefits. *Downs v. Board of Trustees of the Public Employees' Retirement System*. 93 N.J.A.R.2d (TYP) 13.

Library aide entitled to ordinary disability retirement benefits due to back condition even though she continued to work during application process. *Bok v. Board of Trustees, Teachers' Pension and Annuity Fund*. 93 N.J.A.R.2d (TYP) 3.

Public works inspector injured in car accident entitled to accidental disability retirement benefits for traumatic event occurring in course of duty. *Woods v. Public Employees' Retirement System*. 92 N.J.A.R.2d (TYP) 160.

Slip and fall on wet floor not traumatic event entitling carpenter to accidental disability retirement benefits. *Osback v. Public Employees' Retirement System*. 92 N.J.A.R.2d (TYP) 141.

Hospital attendant struck in back by patient lift entitled to accidental disability benefits despite prior degenerative disc disease. *Dix v. Board of Trustees, Public Employees' Retirement System*. 92 N.J.A.R.2d (TYP) 138.

Falling off ladder not direct cause of injury; thus, no eligibility for accidental disability retirement benefits. *Rinaldis v. Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 105.

Security guard with coronary heart disease not entitled to accidental disability retirement benefits; insufficient causality between traumatic event and subsequent heart attack. *Zaharioudakis v. Board of Trustees, Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 93.

Worker's injuries induced by stress and strain of normal work effort, and not result of traumatic event qualifying him for accidental disability retirement benefits. *Rinaldis v. Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 88.

Ground level fall not traumatic event qualifying hospital worker for accidental disability retirement benefits. *Evans v. Board of Trustees, Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 85.

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, he will be permitted within 30 days following board approval of his retirement, to amend the option selection which he 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).

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 his 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 his 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 by both the employee and his employer. Both the employer and the employee will also be advised that a copy of such notice will be placed in the member's file and will be given full consideration in any future claim for disability retirement benefits.

17:2-6.10 Employer application; employee notice

(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 his employees, the member will be promptly notified by letter that:

1. His employer has initiated a disability application, on the member's behalf; and
2. His employer has certified that the member is permanently and totally disabled for the continued performance of duty; and, if appropriate,
3. His employer has certified that the member should be retired as a direct result of a traumatic event occurring during and as a result of the performance of his regular or assigned duties; and
4. He has a period of 30 days to contest his involuntary retirement before the board acts on his employer's application;
5. He will be required to appear for an examination before a physician designated to conduct such an examination for the retirement system; and

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

7. In the event the board finds that he 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.

17:2-6.11 Early retirement benefits

(a) 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 his 55th birthday occurs on or after the 15th day of the month.

(b) Retirement on the first of the month in which a member attains age 55 shall be classed as "early" retirement, although a reduction is not applied if his 55th birthday occurs before the middle of such month.

Amended by R.1974 d.230, effective August 19, 1974.
See: 6 N.J.R. 32(a), 6 N.J.R. 361(a).

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.