

STATE OF INDIANA) SS:

BEFORE THE STATE BOARD OF THE PUBLIC
EMPLOYEES' RETIREMENT FUND FOR THE 1977
POLICE AND FIREFIGHTERS' PENSION AND
DISABILITY FUND

IN THE MATTER OF ROBERT A. KRIZMANICH, CAUSE NO. [REDACTED]

ADMINISTRATIVE ADJUDICATION

The above referenced matter came on to be heard in accordance with IC 4-22-1-1 by the duly appointed hearing officer, Burton L. Garten, on the 19th day of August, 1986 in the offices of the Public Employees' Retirement Fund, Suite 800 Harrison Building, 143 West Market Street, Indianapolis, Indiana 46204. Respondent, the Public Employees' Retirement Fund, was represented by H. Dudley Miller and the petitioner, Robert A. Krizmanich, was represented by Joseph V. Simeri.

Testimony and exhibits were heard and admitted into evidence.

Burton L. Garten now recommends transfer of the hearing findings of fact and decision to the State Board for its final decision and disposition of said matter.

FINDINGS OF FACT AND DECISION AND CONCLUSIONS
OF LAW ARE FOUND IN THE ATTACHED REPORT
OF THE HEARING DATED AUGUST 19, 1986

ADMINISTRATIVE ORDER

Based on the foregoing, the State Board of the Public Employees' Retirement Fund does hereby grant membership in the 1977 Police and Firefighters' Pension Fund to Robert A. Krizmanich, under IC 36-8-8-7, IC 36-8-8-19 and 35 IAC 2-1.1-3 (28).

All of which is ordered this 4th day of December, 19 86.

Richard T. Doermer, Chairman
Al H. Harding, Jr., Vice Chairman
Myrl W. Deitch, Jr., Trustee
Marie T. Lauck, Trustee
Marjorie Meyer, Trustee

Richard T. Doermer, Chairman
Board of Trustees
Public Employees' Retirement Fund

STATE OF INDIANA
PUBLIC EMPLOYEES' RETIREMENT FUND
143 WEST MARKET STREET, SUITE 800
INDIANAPOLIS, INDIANA 46204

In the matter of receiving additional evidence for the review of the findings of fact and the initial determination of the Public Employees' Retirement Fund on the application for membership in the 1977 Police and Firefighters' Pension and Disability Fund under IC 36-8-8-7 and IC 36-8-8-19 by Robert A. Krizmanich.

Reason for Action: PERF initial determination letter dated June 3, 1986 denying membership to Robert A. Krizmanich in the 1977 Police and Firefighters' Pension and Disability Fund.

Hearing Date: August 19, 1986 Place: Public Employees' Retirement Fund
143 West Market St.-Harrison Bldg.
6th Floor Conference Room
Indianapolis, Indiana 46204

FINDING OF FACT AND DETERMINATION

The above matter coming to be heard before Burton L. Garten, duly appointed to conduct administrative hearings, are provided by the Administrative Adjudication Act, Indiana Code 4-22-1.

The Public Employees' Retirement Fund (respondent) was represented by H. Dudley Miller. Robert A. Krizmanich (petitioner) was represented by Joseph V. Simeri.

Petitioner's Exhibits

Copy of:

1. The deposition of Thomas L. Morton, O.D. taken on July 7, 1986.
2. The deposition of Robert Quinn taken on July 21, 1986.
3. The deposition of John Szucs taken on July 21, 1986.
4. A letter dated May 6, 1986 from Tom L. Morton, O.D. to Tom P. Derloshon, Jr. (1 page).
5. A letter dated April 28, 1986 from G. F. Speiser, O.D. (1 page).

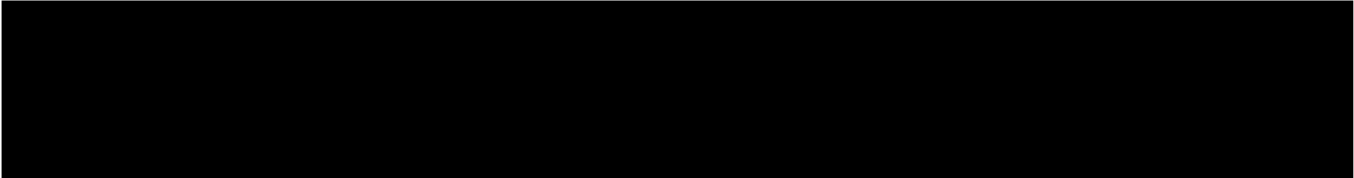
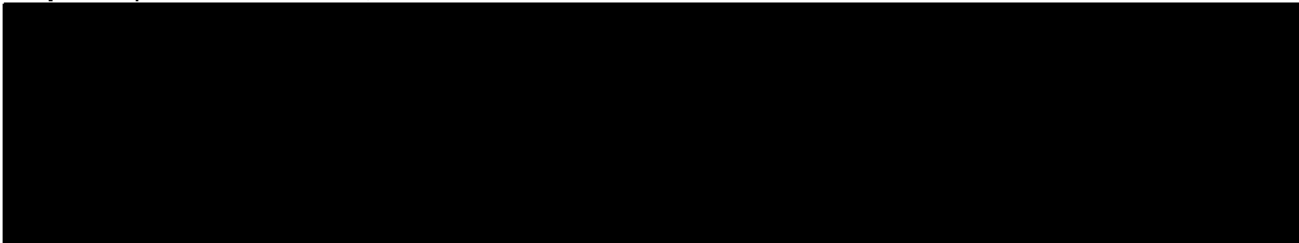
6. A letter dated April 29, 1986 from G. F. Speiser, O.D. (1 page).
7. A letter dated November 16, 1984 from Ernest B. Rozanski, Chief of Operations, South Bend Fire Department to Robert Krizmanich (1 page).
8. Personnel records attached to deposition of Robert Quinn.
9. Evaluation attached to deposition of John Szucs.

Respondent's Exhibits

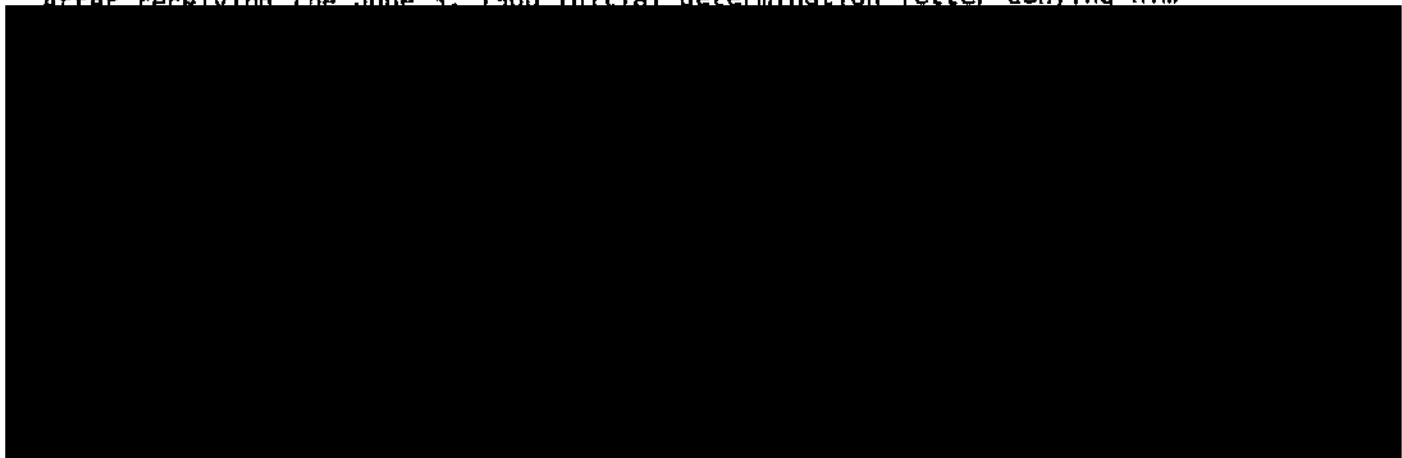
None

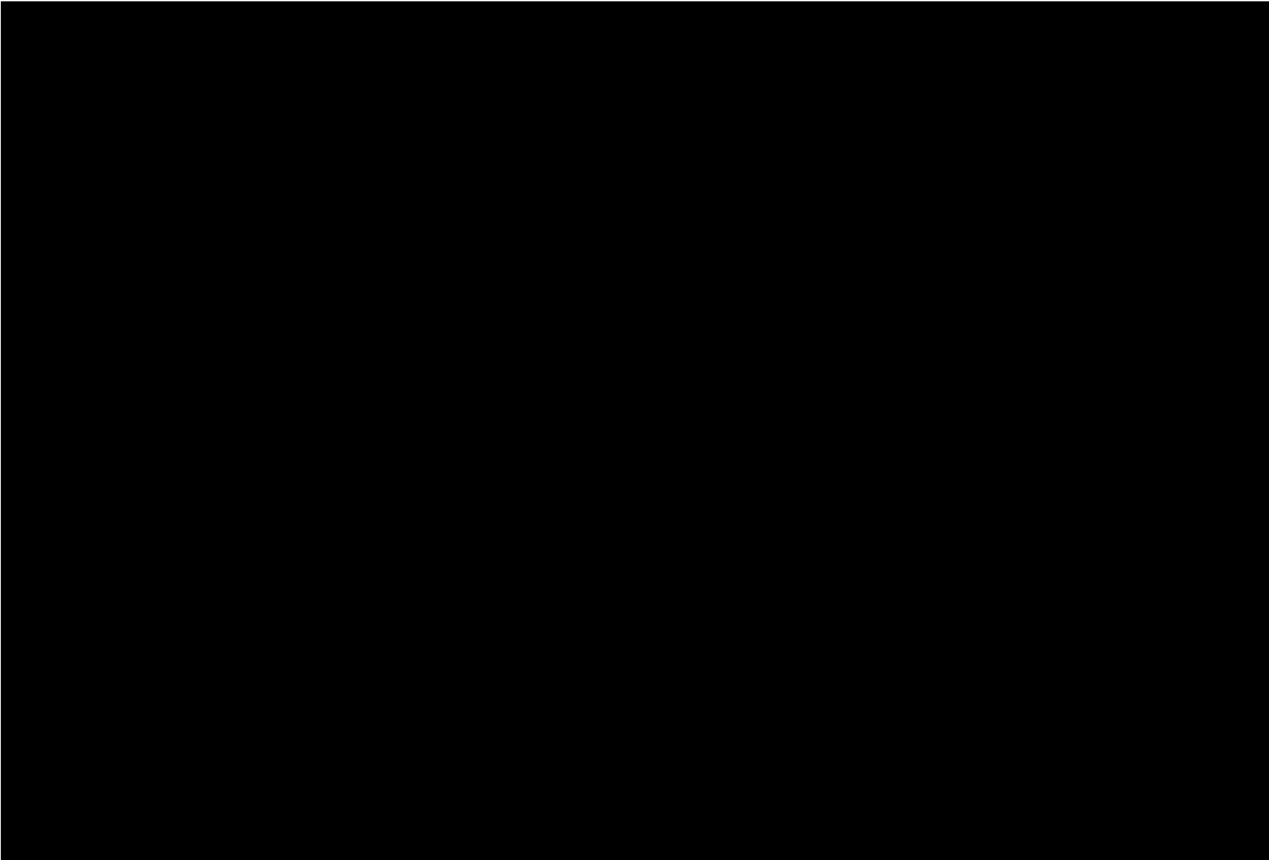
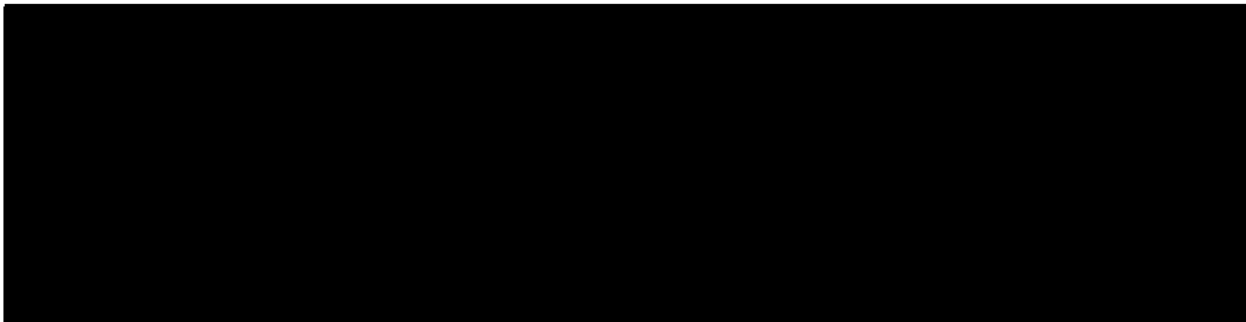
FACTS:

Robert A. Krizmanich was hired by the South Bend Fire Department on September 24, 1985. He worked as a firefighter until the South Bend Fire Pension Fund was notified on June 3, 1986 by a letter from L. H. Earle II, Executive Secretary of the Public Employees' Retirement Fund, that he did not qualify for membership in the 1977 Fund.



After receiving the June 3, 1986 initial determination letter denying him





FINDINGS:

Indiana Code 36-8-8-7 reads in part:

- (a) Except as provided in subsections (d), (e), and (f) of this section:
 - (1) a police officer who has not reached his thirty-sixth birthday; or

- (2) a firefighter who has not reached his thirty-sixth birthday;

who passes a physical examination and mental examination prescribed by the local board under section 19 of this chapter is a member of the 1977 Fund and is not a member of another pension fund.

Indiana Code 36-8-8-19 reads in part:

- (a) The physical examination required by section 7 (a) of this chapter shall be administered by a licensed physician and must include a general medical history and at least the following physical examinations:

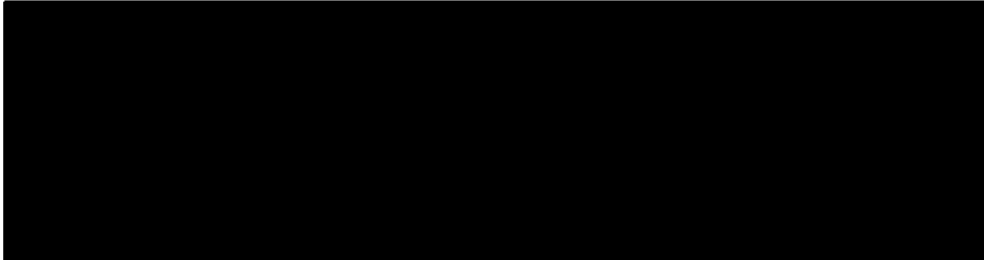
- (1) Visual testing by Snellen Chart
- (2) Pulmonary function test
- (3) Chest x-ray (posterior-anterior and lateral views)
- (4) Lumbosacral spine x-rays (anterior-posterior, lateral and oblique views)
- (5) Treadmill test
- (6) Twelve (12) lead E.C.G.
- (7) Urinalysis
- (8) V.D.R.L. test
- (9) Audiometric test
- (10) "Profile 4" tests from which liver, kidney, blood and metabolic tests may be detected

The PERF Board shall adopt minimum standards by rule under IC 4-22-2 that a police officer or firefighter must meet for the physical examination.

- (b) The mental examination required by section 7 (a) of this chapter shall be administered by a licensed physician or a licensed psychologist, who shall determine if the police officer or firefighter is mentally suitable to be a member of the department.
- (c) The employer shall pay for no less than one-half (1/2) the cost of the examinations.
- (d) Each local board shall name the physicians and psychologists who will conduct examinations under this section.
- (e) If a police officer or firefighter passes the physical and mental examinations and becomes a member of the department, copies of the results of the examinations shall be sent to the PERF Board, which shall retain them until the police officer or firefighter is found to be disabled, retires, or separates from the department. As added by P.L. 365-1983, SEC. 2.

35 IAC 2-11.3 reads in part:

As determined by the physician's examination of the applicant, the following conditions will result in rejection of the applicant except as otherwise indicated:



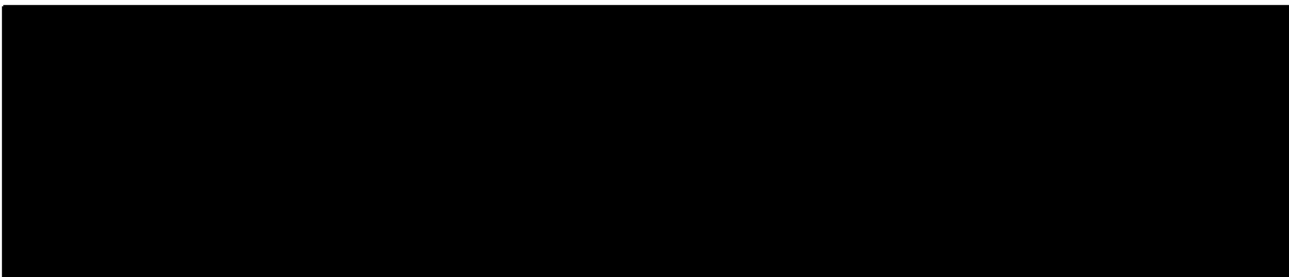
It has been established, pursuant to IC 36-8-8-7, that:

1. Mr. Krizmanich passed all physical and mental examinations prescribed by the local board under IC 36-8-8-19.

It has further been established, pursuant to IC 36-8-8-19, that:

1. All required examinations have been conducted on Mr. Krizmanich.
2. Copies of the results of the examinations have been sent to the PERF Board.

It has further been established, pursuant to 35 IAC 2-1.1-3, that:



DECISION AND CONCLUSION OF LAW:

Based on the evidence and testimony presented, and in view of the above facts and findings, I, Burton L. Garten, duly appointed Administrative Law Judge of the Public Employees' Retirement Fund, would recommend granting membership to Robert A. Krizmanich in the 1977 Police and Firefighters' Pension and Disability Fund pursuant to IC 36-8-8-7, IC 36-8-8-19, and 35 IAC 2-1.1-3.



Burton L. Garten, Administrative Law Judge
Public Employees' Retirement Fund

September 23, 1986