

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 PATRICIA McCASLIN, CAUSE NO. 8 [REDACTED]

ADMINISTRATIVE ADJUDICATION

The above referenced matter came on to be heard in accordance with I.C. 4-22-1-1 by the duly appointed hearing officer, Burton L. Garten, on the 7th day of June, 1983 in the offices of the Public Employees' Retirement Fund, Room 504 Harrison Building, 143 West Market Street, Indianapolis, Indiana 46204. Respondent, the Public Employees' Retirement Fund, was represented by Frank Baldwin and the petitioner, Patricia McCaslin, was represented by John C. Ruckelshaus.

Witnesses were sworn and testimony and exhibits were heard and received 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 JUNE 7, 1983

ADMINISTRATIVE ORDER

Based on the foregoing, the State Board of the Public Employees' Retirement Fund does hereby deny disability benefits to Patricia McCaslin under I.C. 36-8-8-12 and I.C. 36-8-8-13, and does hereby affirm the decision of the local board (Indianapolis Police Pension Fund).

All of which is ordered this 16TH day of August, 1983.

Richard T. Doermer, Chairman
J. Dwight Peterson, Vice Chairman
Myrl W. Deitch, Jr., Trustee
Al H. Harding, Jr., Trustee
Marie T. Lauck, Trustee

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

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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 disability benefits from the 1977 Police and Firefighters' Pension and Disability Fund under I.C. 36-8-8-9, I.C. 36-8-8-12, and I.C. 36-8-8-13 by Patricia A. McCaslin.

Reason for Action: PERF Initial Determination Letters dated December 21, 1982 and February 21, 1983 denying the application for disability benefits from the 1977 Police and Firefighters' Pension and Disability Fund.

Hearing Date: June 7, 1983 Place: Public Employees' Retirement Fund
Suite 504, Harrison Building
143 West Market Street
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 as provided by the Administrative Adjudication Act, Indiana Code 4-22-1.

The Public Employees' Retirement Fund (respondent) was represented by Frank Baldwin. Patricia A. McCaslin (petitioner) was represented by John C. Ruckelshaus.

Joint Exhibits


Copy of:

1. A letter from Burton L. Garten to Frank Baldwin dated May 2, 1983.
2. A letter from T. P. Derloshon, Jr. to Burton L. Garten dated March 23, 1983.
3. A letter from Burton L. Garten to John C. Ruckelshaus dated March 22, 1983.
4. A letter from Burton L. Garten to John C. Ruckelshaus dated March 15, 1983.
5. A letter from L. H. Earle II to Patricia McCaslin dated March 3, 1983.
6. A letter from Patricia McCaslin to L. H. Earle II dated February 28, 1983.
7. PERF Initial Determination Letter dated February 21, 1983.
8. Report from Jon D. Marhenke, M. D. to T. P. Derloshon, Jr. dated _____

February 1, 1983.

9. A letter from T. P. Derloshon, Jr. to Patricia McCaslin dated December 29, 1982.
 10. A letter from T. P. Derloshon, Jr. to Jon D. Marhenke, M. D. dated December 29, 1982.
 11. A letter from Patricia McCaslin to T. P. Derloshon, Jr. dated December 23, 1982.
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12. PERF Initial Determination Letter dated December 21, 1982.
13. Application for disability benefits by Patricia Ann McCaslin dated November 14, 1982.
14. A letter from T. P. Derloshon, Jr. to Arthur P. Kebel, M. D. dated December 10, 1982.
15. A letter from Captain Richard A. S. Dorsey to the Police and Firefighters' Pension Fund dated December 8, 1982.
16. A letter from Patricia McCaslin to the Indianapolis Police Pension Board of Trustees dated November 14, 1982.
17. Birth certificate of Patricia Ann Aleska.
18. Medical report from S. M. Chernish, M. D. to Captain Richard Dorsey dated December 2, 1982.

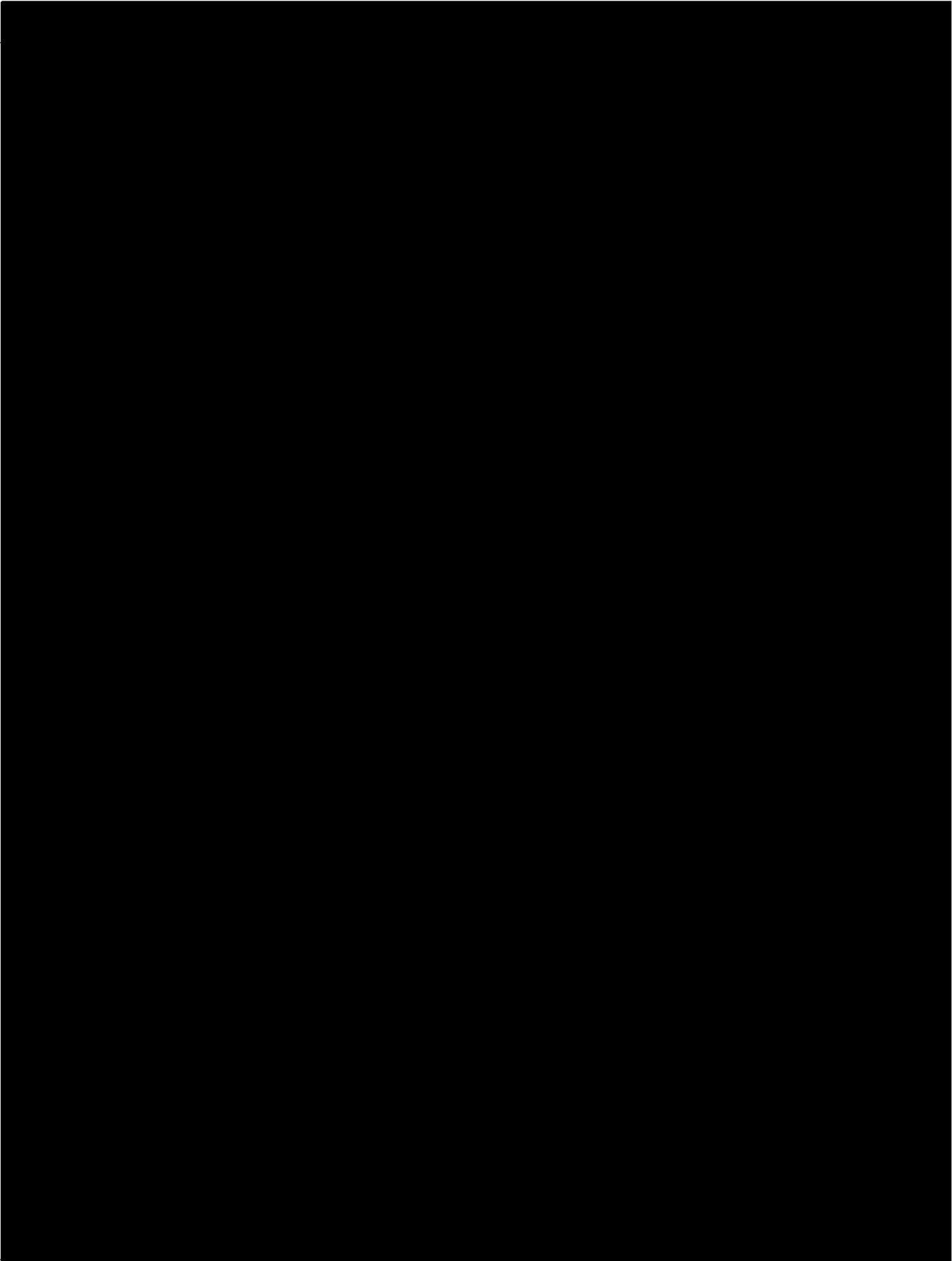
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20. A letter from William Fisher, M. D. to Chief Joseph McAtee dated July 21, 1982.
 21. A letter from Harold W. Williams, M. D. to Chief Joseph McAtee dated July 27, 1982.
 22. A letter from Patricia McCaslin to Chief Joseph McAtee dated September 16, 1982.
 23. A letter from Chief Joseph McAtee to Patricia McCaslin dated September 22, 1982.
 24. A letter from Lieutenant William C. Dahlke to Patricia McCaslin dated October 12, 1982.
 25. A letter to the Indianapolis Police Department Pension Board of Trustees from Stephen R. Dunlop, M. D. dated November 12, 1982.
 26. A letter to the Indianapolis Police Department Pension Board of Trustees from Harold W. Williams, M. D.
 27. Indianapolis Police Pension Board minutes from December 6, 1982.


FACTS:

Patricia McCaslin is a 45 year old Indianapolis police officer. She has four children and is divorced. Since graduating from high school she has worked on several jobs including selling Avon products, working in a restaurant, and working for Blue Cross. She began working for the Indianapolis Police Department in October 1968. During her first year with the police department she was assigned to Communications. After that she spent two years in the Identification Division. For about eight months she was a clerical person in Internal Affairs. She then was with the Juvenile Identification Division for one year. From 1974 to 1978 Officer McCaslin rode the "accident car." She has been with Juvenile Identification since 1978.

Officer McCaslin is a converted member of the 1977 Police and Firefighters'

In July 1982 she received a transfer order moving her to a street assignment. She was to go into the Street Training Program for two weeks. Instead of starting the assignment she took a week's vacation and then was on sick leave from August until October 1982. She has not returned to work. She has requested to not be assigned street duty but be placed in a light duty assignment. Her current status is off duty without pay. She still maintains that she is willing to work inside the police department.





Based on the evidence submitted to the PERF Board she was denied a disability pension by initial determination letters dated December 21, 1982 and February 21, 1983. She has appealed this denial.

FINDINGS:

Indiana Code 36-8-8-12(a) reads in part:

Disability Benefits: If an active fund member is permanently or temporarily unable to perform all suitable and available work with the police or fire department for which he is or may be capable of becoming qualified as determined under Section 13 (36-8-8-13) of this chapter, he is entitled to receive during the disability a benefit equal to the benefit he would have received if he had retired.


Indiana Code 36-8-8-13 reads in part:

Determination of Disability-Review-Termination of Benefits-Appeals:

(a) The local board shall determine, using the procedures prescribed for the 1925, 1937, or 1953 fund, whether a fund member is disabled as defined in Section 12 (36-8-8-12) of this chapter.

(b) The local board shall submit its findings of fact and its determination to the PERF Board. The PERF Board or its hearing officer shall review the findings of fact and the local board's determination. If the PERF Board approves the local board's determination, then the PERF Board shall comply with the determination. If the PERF Board does not approve the local board's determination, the PERF Board or its hearing officer may receive additional evidence on the matter before making its determination. The PERF Board or its hearing officer may request that the fund member be examined by a doctor selected by the PERF Board. The results of the examination shall be submitted to the PERF Board or its hearing officer. If a fund member refuses to submit to an examination, the PERF Board shall find that a disability does not exist.

It has been established, pursuant to I.C. 36-8-8-12 that:

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2. Officer McCaslin is neither permanently or temporarily disabled under the "Listing of Impairments" of Social Security's Supplemental Security Insurance Program (12.00 Mental Disorders).
 3. Officer McCaslin is not unable to perform all suitable and available work with the police department.
 4. Officer McCaslin is not disabled under Law Enforcement Applicants' standards, Section XV 3-3 lb.

It has further been established, pursuant to I.C. 36-8-8-13 that:

1. The local board (Indianapolis Police Pension Board) submitted its findings of fact and determination to the PERF Board on Officer Patricia McCaslin's disability application.
2. The PERF Board approved the local board's determination.
3. Officer McCaslin was examined by a doctor selected by the PERF Board, Jon D. Marhenke, M. D.

DECISION AND CONCLUSIONS OF LAW:

Based on the evidence submitted, including the testimony of doctors Jon D. Marhenke and S.M. Chernish, and in view of the above facts and findings,

I, Burton L. Garten, duly appointed hearing officer for the State Board of the Public Employees' Retirement Fund, would recommend denial of disability benefits to Patricia McCaslin, pursuant to I.C. 36-8-8-12 and I.C. 36-8-8-13. I would recommend that the decision of the local board be upheld.

July 5, 1983

Burton L. Garten

Burton L. Garten, Hearing Officer
Public Employees' Retirement Fund