

10. That based solely on Dr. Markand's conclusion, P.E.R.F. denied Petitioner' disability benefits.

11. That Indiana Code 36-8-8-12.3(b)(3) states:

A covered impairment is an impairment that permanently or temporarily makes a fund member unable to perform the essential functions of the member's duties, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, with the police or fire department. However, a covered

impairment does not include an impairment: (3) that begins within two (2) years after a fund member's entry or reentry into active service with the department and that was caused or contributed to by a mental or physical condition that manifested itself before the fund member entered or reentered active service.

CONCLUSIONS OF LAW

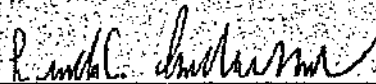


4. That Petitioner does not have a covered impairment.

ORDER

IT IS HEREBY ORDERED, AJUDGED AND DECREED, that Petitioner Martin A. McCloskey be denied disability benefits through the Public Employees' Retirement Fund.

ISSUED this 25th day of June, 1997.



Linda C. Anderson
Administrative Law Judge

Copies by Certified Mail to:

R. Thomas Parker, 1977 Fund Director
Public Employees Retirement Fund
Harrison Building, Suite 800
143 West Market Street
Indianapolis, Indiana 46204

Stephen R. Bowers, Attorney at Law
405 West Lexington Avenue
Post Office Box 518
Elkhart, Indiana 46515-0518

COPIES
EMITTING
BOND