



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PENSIONS AND BENEFITS
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Lt. Governor

September 21, 2017

Sent via email to: [REDACTED]

SHIMBERG & FRIEL, PC
Barbara E. Riefberg, Esquire

[REDACTED]
[REDACTED]
[REDACTED]

RE: James Howell

[REDACTED]
[REDACTED]

Dear Ms. Riefberg:

At its meeting on September 20, 2017, the Board of Trustees of the Public Employees' Retirement System (PERS) considered the following documents in your appeal on behalf of your client, James Howell:

- a) All exhibits; and
- b) The Initial Decision of Administrative Law Judge (ALJ) Edward J. Delanoy, Jr., dated August 21, 2017.

Thereafter, the Board voted to adopt ALJ Delanoy's decision thereby reversing its original determination and approving Mr. Howell's application for Ordinary Disability retirement benefits. Mr. Howell is considered totally and permanently disabled from the performance of his regular and assigned duties as detailed by the applicable statute of N.J.S.A. 43:15A-43. Therefore, Mr. Howell is approved for Ordinary Disability retirement benefits effective July 1, 2015, under his selection of the Maximum option.

Mr. Howell has the right to change the retirement option he selected, provided he files written notice with the Division of Pensions and Benefits' Retirement Bureau within 30 days after the date of this letter. Otherwise, the retirement option will remain and cannot be changed for any reason thereafter.

Once the Board approves a member for a disability retirement allowance, the member's retirement application shall not be withdrawn or canceled, or amended to a later retirement date other than the date specified in the approved retirement application.

This matter is being referred to the Retirement Bureau to process the difference between Service retirement benefits and Ordinary Disability retirement benefits, retroactive to July 1, 2015, under his selection of the Maximum option. Please allow approximately four weeks for the processing of this benefit.

The statute permits the Board of Trustees to require a disability retiree to undergo annual medical examinations to determine if he/she continues to be totally and permanently disabled and, therefore, eligible for continued receipt of his/her disability retirement allowance.

If a member continued to receive a salary beyond the effective date of retirement, no retirement benefits shall be paid for the period where the member received salary and no salary or service credit shall be provided for the service rendered after the approved effective date of retirement. In addition, the member's employer shall be required to complete an updated Certification of Service and Final Salary.

In addition, if in the future Mr. Howell considers returning to a position either in private industry or public employment, be advised that his disability retirement allowance is subject to adjustment if earnings from employment after retirement exceed the difference between the pension portion of his disability retirement allowance and the salary attributable to his former position.

Pension laws require re-enrollment of a retiree under certain conditions. Disability retirees needing guidance on returning to employment should visit our website at www.state.nj.us/treasury/pensions and refer to the fact sheets on employment after retirement. Retirees needing additional clarification should contact the Division to determine the impact of a return to employment would have on their disability retirement benefits.

The Board of Trustees of the Public Employees' Retirement System hereby adopts the findings of fact of the Administrative Law Judge's Initial Decision and incorporates the same herein by reference.

Sincerely,



Mary Ellen Rathbun, Secretary
Board of Trustees
Public Employees' Retirement System

G-12

C: DAG Christine Levecchia (ET); L. Milton (ET); V. McManus (ET); P. Sarti (ET);
T. Williams (ET); L. Williams (ET); OAL, Attn: Library (ET)
James Howell