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Resolution No. 240

Resolution denying the application of Shelba J. Tucker for widow's occupational disability benefits.

WHEREAS, Tommy Tucker, a member of the Bureau of Fire, died on January 2, 1984, leaving a widow, Shelba J. Tucker, and a minor son, and

WHEREAS, Shelba J. Tucker has applied for widow's occupational disability benefits pursuant to Section 5-117, Charter, City of Portland, Oregon, alleging that Tommy Tucker died as a result of pneumonia, and

WHEREAS, the Board of Trustees of the Fire and Police Disability and Retirement Fund, based on the findings of the Board's physician has determined that Shelba J. Tucker is ineligible for the benefits requested, and

WHEREAS, appropriate findings and a determination denying the aforesaid application are attached hereto as Exhibit "A" and by this reference made a part hereof, and should be adopted, now, therefore

BE IT RESOLVED that the findings of fact, conclusion of law and order appearing in the exhibit attached hereto as Exhibit "A" be adopted as the determination of the Board of Trustees of the Fire and Police Disability and Retirement Fund with respect to the application of Shelba J. Tucker for occupational disability benefits.

Adopted by the Board of Trustees, this 9th day of October, 1984.

JEWEL LANSING

Secretary of the Fire and Police
Disability and Retirement Fund

By David E. Cook
Deputy Secretary

1 BASED ON THE FOREGOING FINDINGS OF FACT AND CONCLUSION OF LAW,
2 it is hereby

3 ORDERED that the application of Shelba J. Tucker for widow's
4 occupational disability benefits be and the same hereby is denied.

5 IT IS FURTHER ORDERED that the Deputy Secretary advise the
6 claimant's attorney that the claimant may request the Board to
7 review its determination by submitting this matter to a three-member
8 medical review panel as authorized by Section 5-107 of the Charter
9 of the City of Portland, Oregon.

10 Adopted by the Board of Trustees on this 9th day of October, 1984.

11 JEWEL LANSING, Secretary,
12 Fire and Police Disability and
13 Retirement Fund

14 By David E. Cook
15 Deputy Secretary

BEFORE THE BOARD OF TRUSTEES

FIRE AND POLICE DISABILITY AND RETIREMENT FUND

CITY OF PORTLAND, OREGON

In the Matter of the Application)	
for Widow's Occupational Disability)	
Benefits of)	FINDINGS AND
)	DETERMINATION
SHELBA J. TUCKER,)	
)	
Claimant.)	

This matter came before the above-entitled Board of Trustees on October 2, 1984, pursuant to the application of Shelba J. Tucker requesting occupational disability benefits payable to the widows of deceased fire fighters pursuant to Section 5-117 of the Charter of the City of Portland, Oregon. Claimant appeared in person and by and through her attorney, Amy Levinson and the Board of Trustees after reviewing all of the evidence in this matter makes the following

FINDINGS OF FACT

1. Tommy Tucker, a member of the Fire and Police Disability, Retirement and Death Benefit Plan, was employed as a fire fighter for the City of Portland, Oregon, at the time of his death on January 2, 1984.

2. The terms and provisions of the Fire and Police Disability, Retirement and Death Benefit Plan appear as Sections 5-101 to 5-129 of the Charter of the City of Portland, Oregon.

3. Tommy Tucker was appointed to the position of fire fighter in the Portland Bureau of Fire on November 24, 1964, and at the time of his death had served with the Bureau of Fire for 19 years,

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1 1 month and 9 days. At the time of his death, Tommy Tucker was 49
2 years of age.

3 4. Tommy Tucker was survived by one child under the age of
4 18 and by his widow, Shelba J. Tucker. The child, Mark T. Tucker,
5 attained the age of 18 on May 29, 1984.

6 5. Section 5-117 of the Charter of the City of Portland,
7 Oregon, provides, in relevant part:

8 If any member shall die prior to retirement
9 from any injury suffered in line of duty, or
10 sickness caused by the performance of duty,
11 or as a result of an occupational disability
12 of heart disease, hernia of the abdominal
13 cavity or diaphragm, tuberculosis or pneumonia
(except terminal pneumonia), and shall leave
a widow, said widow shall be entitled to
benefits or pension as herein provided, while
remaining unmarried. ***

14 6. Tommy Tucker died from natural causes prior to retiring
15 from the Bureau of Fire. His death was caused by malignant lymphoma
16 with post-splenectomy pneumonococemia.

17 7. Tommy Tucker did not develop pneumonia prior to his
18 death.

19 ULTIMATE FINDINGS OF FACT

20 1. Tommy Tucker's death was not the result of heart disease,
21 hernia of the abdominal cavity or diaphragm, tuberculosis or pneumonia.

22 CONCLUSION OF LAW

23 1. Shelba J. Tucker is not eligible to receive widow's
24 occupational disability benefits because Tommy Tucker's death was
25 not the result of any of the occupational disabilities specified in
26 Section 5-117 of the Charter of the City of Portland, Oregon.