

RESOLUTION NO. 293

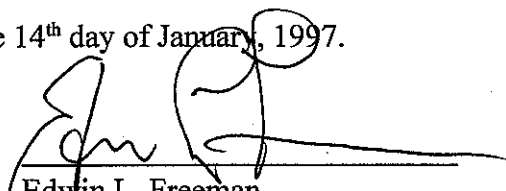
WHEREAS, Robert L. Braaten, a retired former Active Member of the Fire and Police Disability, Retirement and Death Benefit Plan (Plan) has filed a claim for medical benefits, and

WHEREAS, the Board of Trustees considered the claim of Robert L. Braaten at its regular monthly meeting on December 10, 1996, and

WHEREAS, the Findings and Determination of the Board relative to the claim of Robert L. Braaten are attached hereto as Attachment "A."

NOW, THEREFORE, BE IT RESOLVED that the Findings of Fact, Ultimate Findings of Fact, Conclusions of Law and Order appearing in the document attached hereto as Attachment "A" be and the same hereby are adopted as the Findings of Fact, Ultimate Findings of Fact, Conclusions of Law and Order of the Board of Trustees of the Fire and Police Disability and Retirement Fund.

ADOPTED by the Board of Trustees on the 14th day of January, 1997.


Edwin L. Freeman
Fund Administrator

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of
ROBERT L. BRAATEN,
Claimant.

FINDINGS OF FACT

3. At all times since his retirement, Robert L. Braaten has been receiving retirement benefits pursuant to Section 5-304 of the Plan and will continue to receive such benefits for the rest of his life.

1 4. Immediately prior to his retirement, Robert L. Braaten was actively employed as
2 a police officer for the PPB and was being paid a salary from the payroll of the PPB.

3 5. On or about April 16, 1993, Robert L. Braaten purchased hearing aids because of
4 a hearing problem which he alleges was caused by his employment with the PPB.

5 6. The cost of the hearing aids purchased by Robert L. Braaten was \$920.00.

6 7. Section 5-306(e) of the Plan provides, in relevant part:

7 " . . . a Member with a Service-Connected or Occupational injury or
8 illness shall be reimbursed from the Fund for reasonable medical and hospital
9 expenses arising from the injury or illness, as determined by the Board. Such
10 reimbursement shall be allowed for expenses incurred while serving as an
11 Active Member, while the Member's disability benefits under this Section
12 continue and, if the Member continues to receive such benefits until Disability
13 Retirement Age, while retirement benefits under Section 5-304 continue to the
14 Member."

15 8. Section 5-301(b) of the Plan defines the term "Active Member" as "a person who
16 is actively employed as a Member in the Bureau of Fire or Police and does not include a
17 Member receiving benefits under this Chapter."

18 9. Section 5-304(a) of the Plan defines the term "Disability Retirement Age" to "be
19 the earlier of the date the Member earns 30 Years of Service under Section 5-302 or the date
20 the Member attains social security retirement age." Social security retirement age is defined
21 as "the age provided in Section 216(l)(1) of the Social Security Act," which is age 65.

22 ULTIMATE FACTS

23 1. Robert L. Braaten, a retired Member of the Plan, has incurred medical expenses in
24 the amount of \$920.00 for the purchase of hearing aids.

25 2. At the time he incurred medical expenses in the amount of \$920.00, Robert L.
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1 Braaten was not an Active Member of the Plan, was not receiving service-connected disability
2 benefits pursuant to Section 5-306 of the Plan and was not receiving retirement benefits, in lieu
3 of disability benefits, because he had attained Disability Retirement Age.

4 CONCLUSIONS OF LAW

5 1. Robert L. Braaten is ineligible to apply for or receive reimbursement for the medical
6 expenses incurred by him on April 16, 1993.

7 2. The Board of Trustees lacks jurisdiction to consider the merits of Robert L.
8 Braaten's claim for medical benefits.

9 BASED ON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF
10 LAW, it is hereby

11 ORDERED that the application of Robert L. Braaten for medical benefits be filed and
12 given no further consideration.

13 Adopted by the Board of Trustees on January 14, 1997.
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16 Fund Administrator
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18 TO THE CLAIMANT: THIS DECISION IS SUBJECT TO REVIEW BY THE
19 MULTNOMAH COUNTY CIRCUIT COURT PURSUANT TO ORS 34.010 TO 34.100.
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