



Board of Administration Offsite

Action Item – Proposed Decisions of Administrative Law Judges Item d

July 14, 2021

Item Name: In the Matter of the Appeal of Lifetime Monthly Benefit Payable Upon the Death of John R. Ford by JOHNETTA LAMAR FORD, JOHN P. FORD, JERMAINE FORD and TENEEN FORD, Respondents and DEBRA ANN SHELTON-LOVE, Respondent.

Program: Disability and Survivor Benefits Division

Item Type: Action

Parties' Positions

Staff argues that the Board of Administration should adopt the Proposed Decision.

Respondents Johnetta Lamar Ford, John P. Ford, Jermaine Ford and Teneen Ford's (Ford Respondents) position is included in Attachment C, if any.

Respondent Debra Ann Shelton-Love's (Respondent Shelton-Love) position is included in Attachment C, if any.

Strategic Plan

This item is not a specific product of either the Strategic or Annual Plans. The determination of administrative appeals is a power reserved to the Board of Administration.

Procedural Summary

On November 7, 2013, John R. Ford (Decedent) submitted a service retirement application, naming Respondent Shelton-Love as the beneficiary of his CalPERS survivor benefits. On March 1, 2018, Respondent Shelton-Love contacted CalPERS to report that Decedent passed away on February 26, 2018. Thereafter, on March 13, 2018, Respondent Johnetta Ford contacted CalPERS and notified it that Decedent and Respondent Shelton-Love were not lawfully married at the time of Decedent's death. CalPERS received evidence that the Los Angeles County Superior Court entered a judgment of dissolution on July 14, 2015, finalizing the dissolution of Decedent and Respondent Shelton-Love's marriage. Subsequently, CalPERS was presented with evidence that the Los Angeles County Superior Court set aside the dissolution of marriage and found that Decedent and Respondent Shelton-Love were lawfully married at the time of his death.

The Ford Respondents and Respondent Shelton-Love ultimately made separate claims as the

purported beneficiaries of the Decedent's CalPERS survivor benefits. CalPERS determined that (1) the Los Angeles County Superior Court set aside the dissolution of marriage, (2) Respondent Shelton-Love and Decedent were lawfully married at the time of his death, and (3) Respondent Shelton-Love is entitled to Decedent's CalPERS survivor benefits, minus the overpayment of benefits that she received for the period of time Decedent was not alive in February 2018. Respondent Johnetta Ford, on behalf of the Ford Respondents, submitted an appeal of CalPERS' determination and the matter was heard by the Office of Administrative Hearings on April 26, 2021. A Proposed Decision was issued on May 20, 2021, affirming CalPERS' determination and denying the Ford Respondents' appeal.

Alternatives

A. For use if the Board decides to adopt the Proposed Decision as its own Decision:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System hereby adopts as its own Decision the Proposed Decision dated May 20, 2021, concerning the appeal of John R. Ford (dec.) by Johnetta Lamar Ford, John P. Ford, Jermaine Ford and Teneen Ford; RESOLVED FURTHER that this Board Decision shall be effective 30 days following mailing of the Decision.

B. For use if the Board decides not to adopt the Proposed Decision, and to decide the case upon the record:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, after consideration of the Proposed Decision dated May 20, 2021, concerning the appeal of John R. Ford (dec.) by Johnetta Lamar Ford, John P. Ford, Jermaine Ford and Teneen Ford, hereby rejects the Proposed Decision and determines to decide the matter itself, based upon the record produced before the Administrative Law Judge and such additional evidence and arguments that are presented by the parties and accepted by the Board; RESOLVED FURTHER that the Board's Decision shall be made after notice is given to all parties.

C. For use if the Board decides to remand the matter back to the Office of Administrative Hearings for the taking of further evidence:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, after consideration of the Proposed Decision dated May 20, 2021, concerning the appeal of John R. Ford (dec.) by Johnetta Lamar Ford, John P. Ford, Jermaine Ford and Teneen Ford, hereby rejects the Proposed Decision and refers the matter back to the Administrative Law Judge for the taking of additional evidence as specified by the Board at its meeting.

D. Precedential Nature of Decision (two alternatives; either may be used):

1. For use if the Board wants further argument on the issue of whether to designate its Decision as precedential:

RESOLVED, that the Board of Administration of the California Public Employees'

Retirement System requests the parties in the matter concerning the appeal of John R. Ford (dec.) by Johnetta Lamar Ford, John P. Ford, Jermaine Ford and Teneen Ford, as well as interested parties, to submit written argument regarding whether the Board's Decision in this matter should be designated as precedential, and that the Board will consider the issue whether to designate its Decision as precedential at a time to be determined.

2. For use if the Board decides to designate its Decision as precedential, without further argument from the parties.

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, hereby designates as precedential its Decision concerning the appeal of John R. Ford (dec.) by Johnetta Lamar Ford, John P. Ford, Jermaine Ford and Teneen Ford.

3. For use if the Board decides to designate its Decision as precedential, without further argument from the parties.

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, hereby designates as precedential its Decision concerning the appeal of John R. Ford (dec.) by Johnetta Lamar Ford, John P. Ford, Jermaine Ford and Teneen Ford.

Budget and Fiscal Impacts: Not applicable

Attachments

Attachment A: Proposed Decision

Attachment B: Staff's Argument

Attachment C: Respondent(s) Argument(s)

Anthony Suine
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Customer Services and Support