

Court of Appeals, State of Michigan

ORDER

Susan Bourakbaoui-Reider v State Employees Retirement System

Donald S. Owens
Presiding Judge

Docket No. 314011

William C. Whitbeck

LC No. 12-000292-AA

Patrick M. Meter
Judges

The Court orders that the motion for immediate consideration is GRANTED.

Pursuant to MCR 7.205(D)(2), the circuit court's November 1, 2012 order is REVERSED. Entitlement to non-duty disability retirement benefits requires a medical advisor's written certification that the employee is "totally incapacitated for further performance of duty, that the incapacitation is likely to be permanent, and that the [employee] should be retired." MCL 38.24(1)(b); *Polania v State Employees' Retirement Bd*, ___ Mich App ___, ___ NW2d ___ (Docket No. 308593, rel'd January 29, 2013). Because the record shows that the medical advisor in this case refused to certify that petitioner is totally and permanently disabled, the Retirement Board lacked authority to retire her and properly denied her claim. *Id.*, slip op p 6. This case is REMANDED for reinstatement of the Retirement Board's decision.

The motion for stay is DENIED as moot.

This Court retains no further jurisdiction.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

APR 26 2013

Date

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line. Below the line, the words "Chief Clerk" are printed.

Chief Clerk