

STATE OF MICHIGAN
COURT OF APPEALS

JOHN HAMILTON,

Plaintiff-Appellant,

v

CITY OF DETROIT and
SECOND INJURY FUND,

Defendants-Appellees.

UNPUBLISHED

April 20, 2001

No. 210634

WCAC

LC No. 94-000369

Before: Kelly, P.J., and White and Wilder, JJ.

PER CURIAM.

This matter is before us on remand from the Supreme Court for consideration as on leave granted. 456 Mich 951. Our decision is controlled by this Court's decision in *Crowe v Detroit*, 237 Mich App 397; 603 NW2d 107 (1999), lv gtd 463 Mich 905; 618 NW2d 772 (2000). We therefore affirm.

Plaintiff became a Detroit police officer in 1963. In July 1967, he was shot several times. Plaintiff received a work-related "disability pension" of two-thirds of his pay from 1967 until November 18, 1988. Plaintiff's benefits during those years were "like benefits" under MCL 418.161(1)(c); MSA 17.237(161)(1)(c). In November 1988, defendant began paying plaintiff a "reduced disability allowance" in the same amount as plaintiff would have received if he had simply retired at that point (i.e., after 25 years of creditable service).

Plaintiff argues that when his pension was reduced to the level of a regular retirement benefit, it, in effect, ceased to be a disability benefit and became a regular pension, and therefore was no longer a "like benefit" under the statute. This issue was decided in *Crowe, supra*, in favor of defendant. *Crowe* concluded that the nature of the "like benefits" did not change just because the amount of benefits was reduced, in accordance with the terms of the pension scheme, to the same amount a regularly retired officer would receive. *Crowe* controls the instant case, MCR 7.215(I), and dictates that the WCAC be affirmed.¹

¹ Because the Supreme Court has granted leave in *Crowe*, it is unnecessary for this panel to express an opinion regarding whether *Crowe* was correctly decided.

In light of *Crowe*, we do not reach plaintiff's argument that the magistrate and the WCAC should have found him totally and permanently disabled under MCL 418.361(3)(g); MSA 17.237(361)(3)(g)(total loss of industrial use of both legs).

Affirmed.

/s/ Michael J. Kelly

/s/ Helene N. White

/s/ Kurtis T. Wilder