

STATE OF INDIANA) SS:

BEFORE THE STATE BOARD OF THE PUBLIC
EMPLOYEES' RETIREMENT FUND FOR THE 1977
POLICE AND FIREFIGHTERS' PENSION AND
DISABILITY FUND

IN THE MATTER OF MRS. EITHYEL SANDLER CAUSE NO. [REDACTED]

ADMINISTRATIVE ADJUDICATION

The above referenced matter came on to be heard in accordance with IC 4-22-1-1 by the duly appointed hearing officer, Burton L. Garten, on the 19th day of November, 1986 in the offices of the Public Employees' Retirement Fund, Suite 800 Harrison Building, 143 West Market Street, Indianapolis, Indiana 46204. Respondent, the Public Employees' Retirement Fund, was represented by H. Dudley Miller and the petitioner, Mrs. Eithyel Sandler, was represented by Earl C. Townsend, Jr.

Testimony and exhibits were heard and admitted as evidence.

Burton L. Garten now recommends transfer of the hearing findings of fact and decision to the State Board for its final decision and disposition of said matter.

FINDINGS OF FACT AND DECISION AND CONCLUSIONS
OF LAW ARE FOUND IN THE ATTACHED REPORT
OF THE HEARING DATED NOVEMBER 19, 1986

ADMINISTRATIVE ORDER

Based on the foregoing, the State Board of the Public Employees' Retirement Fund does hereby deny the lump sum special [REDACTED] death benefit to Mrs. Eithyel Sandler, pursuant to IC 36-8-7.5-22 and IC 36-8-7.5-14.1

All of which is ordered this 20th day of February, 19 87.

Richard T. Doermer, Chairman
Al H. Harding, Jr., Vice Chairman
Myrl W. Deitch, Jr., Trustee
Marie T. Lauck, Trustee
Marjorie Meyer, Trustee


Board of Trustees
Public Employees' Retirement Fund

STATE OF INDIANA
PUBLIC EMPLOYEES' RETIREMENT FUND
143 WEST MARKET STREET, SUITE 800
INDIANAPOLIS, INDIANA 46204

In the matter of receiving additional evidence for the review of the findings of fact and the initial determination of the Public Employees' Retirement Fund on the application for the [REDACTED] death benefit pursuant to IC 36-8-7.5-22 by Mrs. Eithyel Sandler.

Reason for Action: PERF initial determination letter dated October 1, 1986 denying the [REDACTED] death benefit pursuant to IC 36-8-7.5-22 to Mrs. Eithyel Sandler.

Hearing date: November 19, 1986 Place: Public Employees' Retirement Fund
PERF Conference Room-Harrison Bldg.
143 West Market Street
Indianapolis, IN 46204

FINDING OF FACT AND DETERMINATION

The above matter coming to be heard before Burton L. Garten, duly appointed to conduct administrative hearings, are provided by the Administrative Adjudication Act, Indiana Code 4-22-1.

The Public Employees' Retirement Fund (respondent) was represented by H. Dudley Miller. Mrs. Eithyel Sandler (petitioner) was represented by Earl C. Townsend, Jr.

Petitioner's Exhibits

Copy of:

1. A letter dated October 8, 1986 from Christopher D. Seigel, Legal Adviser, IPD, to Mrs. Eithyel Sandler (2 pages).
2. Indianapolis Police Department General Order No. 9.00 issued May 30, 1986, effective January 1, 1986 (1 page, front and back).
3. Indianapolis Police Department General Order No. 2.0 issued March 23, 1978, effective March 23, 1978 (1 page, front and back).
4. Indianapolis Police Department Rules and Regulation, Section IV - Neglect of Duty (2 pages).
5. Brief of widow, date stamped December 19, 1986 (9 pages).

Respondent's Exhibits

Copy of:

1. The investigation and file material in connection with the death of Indianapolis Police Department Officer Dave L. Sandler. It also includes voluntary statements and witness statements (106 pages).

FACTS:

On June 4, 1986 Indianapolis Police Officer David L. Sandler was on his police motorcycle while returning home. He had been working late because of the visit of Vice-President George Bush to Indianapolis that day. He was in uniform and complying with all police department requirements as he went home. In the vicinity of Madison Avenue and Nelson Streets, about 2700 South Madison Avenue, in Indianapolis, Indiana, a car turned left into the path of Officer Sandler's police motorcycle resulting in a collision. Officer Sandler died as a result of the accident. The cause of death was blunt force injury to the head.

Mrs. Eithyel Sandler, widow of Officer David L. Sandler, filed for death benefits under the federal law, Public Safety Officers' Benefits Act of 1976. The [REDACTED] death benefit was determined payable by the United States Department of Justice.

Mrs. Sandler also filed for the lump sum special [REDACTED] death benefit from the Indiana Pension Relief Fund under IC 5-10.3-11. By letter of October 1, 1986, signed by L. H. Earle II, Executive Secretary of the Public Employees' Retirement Fund, Mrs. Sandler was denied the [REDACTED] death benefit. She objected to the determination of the October 1, 1986 letter and an administrative hearing was held November 19, 1986 at the offices of the Public Employees' Retirement Fund.

FINDINGS:

Indiana Code 36-8-7.5-22 reads in part:

"Death in the line of duty - special lump sum death benefit - (a) A special death benefit of fifty thousand dollars (\$50,000) shall be paid in a lump sum by the public employees' retirement fund from the pension relief fund established under IC 5-10.3-11 to the surviving spouse, or if there is no surviving spouse, to the surviving children (to be shared equally), of a fund member who dies in the line of duty (as defined in section 14.1 (36-8-7.5-14.1) of this chapter)."

Indiana Code 36-8-7.5-14.1 reads in part:

"Death in the line of duty - benefits - (b) For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness resulting from the member's action in his capacity as a police officer responding to an offense or a reported offense."

It has been established, pursuant to Indiana Code 36-8-7.5-22, that:

1. Officer David L. Sandler was killed on June 4, 1986 while going home on his police motorcycle.
2. The traffic accident that caused his death occurred in Marion County.

It has further been established, pursuant to Indiana Code 36-8-7.5-14.1, that:

1. Officer David L. Sandler's death was the result of personal injury while going home on his police motorcycle.
2. Officer David L. Sandler was not responding to an offense or a reported offense at the time of the accident that resulted in his death.

DECISION AND CONCLUSION OF LAW:

Based on the testimony and exhibits, and in view of the above facts and findings, I, Burton L. Garten, duly appointed administrative law judge for the State Board of the Public Employees' Retirement Fund, would recommend denying the lump sum special death benefit to Mrs. Eithyel Sandler, pursuant to IC 36-8-7.5-22 and IC 36-8-7.5-14.1.

January 27, 1987



Burton L. Garten, Administrative Law Judge
Public Employees' Retirement Fund