

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

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| Case Number | 24WC005890 |
| Case Name | Loren Kunz v. City of Springfield |
| Consolidated Cases | |
| Proceeding Type | Request for Hearing |
| Decision Type | Arbitration Decision |
| Commission Decision Number | |
| Number of Pages of Decision | 9 |
| Decision Issued By | Edward Lee, Arbitrator |

| | |
|---------------------|---------------|
| Petitioner Attorney | Stephen Kelly |
| Respondent Attorney | Kenneth Bima |

DATE FILED: 5/7/2025

/s/Edward Lee, Arbitrator

Signature

INTEREST RATE WEEK OF MAY 6 2025 4.09%

STATE OF ILLINOIS)
)SS.
COUNTY OF Sangamon)

| | |
|-------------------------------------|---------------------------------------|
| <input type="checkbox"/> | Injured Workers' Benefit Fund (§4(d)) |
| <input type="checkbox"/> | Rate Adjustment Fund (§8(g)) |
| <input type="checkbox"/> | Second Injury Fund (§8(e)18) |
| <input checked="" type="checkbox"/> | None of the above |

**ILLINOIS WORKERS' COMPENSATION COMMISSION
ARBITRATION DECISION**

Loren Kunz
Employee/Petitioner

Case # **24** WC **005890**

v.

Consolidated cases: **N/A**

City of Springfield
Employer/Respondent

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **Edward Lee**, Arbitrator of the Commission, in the city of **Springfield**, on **3/26/2025**. After reviewing all of the evidence presented, the Arbitrator hereby makes findings on the disputed issues checked below, and attaches those findings to this document.

DISPUTED ISSUES

- A. ☐ Was Respondent operating under and subject to the Illinois Workers' Compensation or Occupational Diseases Act?
- B. ☐ Was there an employee-employer relationship?
- C. ☐ Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?
- D. ☐ What was the date of the accident?
- E. ☐ Was timely notice of the accident given to Respondent?
- F. ☐ Is Petitioner's current condition of ill-being causally related to the injury?
- G. ☐ What were Petitioner's earnings?
- H. ☐ What was Petitioner's age at the time of the accident?
- I. ☐ What was Petitioner's marital status at the time of the accident?
- J. ☒ Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?
- K. ☒ What temporary benefits are in dispute?
☐ TPD ☐ Maintenance ☒ TTD
- L. ☒ What is the nature and extent of the injury?
- M. ☒ Should penalties or fees be imposed upon Respondent?
- N. ☒ Is Respondent due any credit?
- O. ☐ Other _____

FINDINGS

On **3/13/2022**, Respondent *was* operating under and subject to the provisions of the Act.

On this date, an employee-employer relationship *did* exist between Petitioner and Respondent.

On this date, Petitioner *did* sustain an accident that arose out of and in the course of employment.

Timely notice of this accident *was* given to Respondent.

Petitioner's current condition of ill-being *is* causally related to the accident.

In the year preceding the injury, Petitioner earned **\$98,838.20**; the average weekly wage was **\$1,804.19**.

On the date of accident, Petitioner was **38** years of age, *married* with **3** dependent children.

Respondent *has not* paid all appropriate charges for all reasonable and necessary medical services.

Respondent shall be given a credit of **\$88,507.16 (TTD payments + net salary continuation payments)**

ORDER

Respondent shall pay the Petitioner TTD benefits from 7/22/2022 – 1/23/2023 and 5/01/2023 – 1/24/2024 for 64 6/7 weeks, or \$78,010.00. Respondent is entitled to a credit in the amount of \$88,507.16 for the lost time benefits that it paid to Petitioner leaving a credit to Respondent in the amount of \$10,497.16.

Respondent shall pay all medical charges related to this claim, for Petitioner's reasonable and necessary medical treatment, as outlined in Petitioner's Exhibit 6. Respondent shall pay all medical charges consistent with the medical fee schedule, and pursuant to Section 8(a) and 8.2 of the Act. Respondent shall receive a credit for all payments that it has made and for the payments made by its group carrier consistent with 8(j) of the Act.

Respondent shall pay permanent partial disability benefits at the max rate of \$998.02/week for 210 weeks, because the injuries sustained caused a 42% permanent partial disability to the person as a whole as provided in Section 8(d)(2) of the Act.

RULES REGARDING APPEALS Unless a party files a *Petition for Review* within 30 days after receipt of this decision, and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

STATEMENT OF INTEREST RATE If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

Edward Lee

Signature of Arbitrator

MAY 7 2025

THE ARBITRATOR FINDS THE FOLLOWING FACTS:

Petitioner is 41 years old. He testified that he has been working since age 13. Before he became a firefighter, Petitioner worked for an appliance store where originally, he was a driver and then he became a technician.

In September of 2006, Petitioner was hired by the Springfield Fire Department. He became a member of the International Association of Firefighters Local 37.

As a firefighter, Petitioner continued to undergo training and he was promoted to a driver engineer in 2016. In that capacity, Petitioner would drive the fire apparatus to the assigned call. On the medical side, Petitioner received a license as an EMT basic. Petitioner testified that the majority of his calls would be medical calls which would require Petitioner to engage in life-threatening situations.

On March 13, 2022, Petitioner was working as a firefighter. On that date, Petitioner was called to a scene where a 10-year-old was shot in the chest. Petitioner's unit was the first one on the scene. Shortly after arriving, Petitioner relieved a police officer in performing CPR on the child. Petitioner stayed with the child in the ambulance as he was transported to the hospital. The child did not survive. Petitioner testified that the 10-year-old child looked just like his younger son.

Following that incident, Petitioner testified that he was not the same. He was irritable with his family and short-tempered. Petitioner did not seek any medical treatment but he felt that his mental health symptoms were coming on. Petitioner's symptoms eventually started spinning out of control and on July 29, 2022, following his shift, Petitioner was having suicidal ideations and decided to drive himself to the Memorial Medical Center emergency room. Petitioner testified that days prior, a friend and colleague committed suicide.

Approximately three and a half months following the March 13, 2022 incident, Petitioner was seen at the emergency room of Memorial Medical Center on July 29, 2022.

The Memorial Medical Center emergency room records make no mention of the 3/13/2022 incident. The assessment of the emergency room provider states "The patient is a 39-year-old male with a past psychiatric history of adjustment disorder with depressed mood. The patient has been struggling with a multitude of psychosocial stressors. He works as a fireman and has a very high stress occupation. His responsibilities at home have also been a frequent source of stress. It appears that a recent suicide by a colleague is what triggered his worsened mood." The emergency room record also notes that "He expressed how he feels like he had to be strong for his family and his employment despite experiencing depressive symptoms for over 10 years. Writer supported patient and encouraged patient to discuss concerns and beliefs that are not serving him with an outpatient therapist. Patient processed several life stressors including his job, his family strain, and the deconstruction of his spirituality."

While admitted voluntarily to the in-patient psychiatric unit, the claimant noted the following psychosocial stressors:

"It appears that the patient has been living with symptoms of anxiety and depression over the past several years. He is experiencing stress related to his employment. He talks about working multiple overtime shifts. He reports difficulty refusing work when it is offered to him. As a result, the patient reports that he is rarely at home. He is experiencing stress at home as he feels that he is unable to fulfill his obligations. He reports that he has

become irritable with his wife and children. It appears that the patient is experiencing stress related to unprocessed grief following the death of a colleague from suicide. It appears that the patient is experiencing stress related to unprocessed emotional trauma related to events at work. The patient appears to have limited social support.”

The in-patient psychiatric records also document “He talked about his life as a firefighter for 16 years, stating that he has 11 more to go. He states that after he retires, he is going to have nothing to do with firefighting stating that ‘It has fucked me up enough.’ Other than the death of a co-worker, he feels that the excessively long hours and schedule that he works has contributed to his mental state he is in now.”

The records also state “The patient also reported that he has had an episode with very similar symptoms approximately six months earlier that lasted for about three weeks, but he was able to get himself out of it.”

The claimant’s wife was also interviewed. The claimant’s wife stated:

“Spoke with patient’s wife, Jessica, who reported that she feels this has been an escalating problem over the past six months stating that he has not been enjoying life, feeling like he is letting people down, feeling lots of pressure. Reported being more short and lacking patience with increased anger. She stated that he is a ‘tough it out kind of guy.’ She reported that he has had similar episodes in the past prior to the last six months where he gets angry and he stated ‘Well I’ll drive off a bridge or shoot myself in the head.’ She reported that during these times, he will get restless, sleepless, low energy, and cannot relax. She denied the patient ever attempted to end his life. She reported that one time he did bang his head on a door and has punched walls. She reported that work has been overwhelming for him, but reported that ‘his identity is wrapped up in his work.’ She reported that he hates work now. She denied him turning to alcohol or drugs during these times. . . She stated that he has not reported any PTSD symptoms, but reported that there was physical abuse during childhood providing an instant where parents held his head under water for doing dishes.” (RX5)

Petitioner testified that he was discharged from the psychiatric unit of Memorial Medical Center on 8/01/2022. Petitioner testified that following his discharge, he did not return to work and used his sick and personal time. Petitioner was referred to Dr. Laura Shea, a psychiatrist, but it took several months to see her. As such, Petitioner testified that he reached out to a friend who was a licensed therapist, Mr. Daniel Waters.

Dr. Shea’s records note that she first saw Petitioner on 9/29/2022. That record notes that she was seeing Petitioner for post-traumatic stress disorder (PTSD) related to the March of 2022 incident. Dr. Shea noted that Petitioner’s PTSD symptoms were improving and she recommended continued psychotherapy. Dr. Shea was going to discuss the return to work issue during the claimant’s follow up in 1-2 months.

Petitioner saw Dr. Shea again on 11/10/2022 and 1/23/2023. During the visit on 1/23/2023, Petitioner noted improvement with his temper and self-awareness. On that date, Dr. Shea released Petitioner back to work as a firefighter (PX4).

Petitioner testified that he returned to work on 2/23/2023. Petitioner testified that he returned to work because he was concerned about running out of his personal time. Petitioner testified that he was not receiving workers' compensation benefits.

Petitioner testified that when he returned to work he was very anxious. He would perform his normal duties but he knew that something was not right.

On 4/23/2023, Petitioner was having suicidal thoughts. While at work, Petitioner advised the safety officer that he was contemplating suicide. The safety director immediately got help and a crisis counselor from Memorial Medical Center came and calmed Petitioner down. Petitioner testified that his captain and his safety officer advised the rest of the Department and they got in touch with the Center of Excellence in Maryland. Petitioner testified that the Center of Excellence is a mental health hospital that is through his union and it is only for full time firefighters. It was agreed with the crisis counselor that if Petitioner went home with his wife and his neighbor, who is a retired firefighter captain, Petitioner would not have to go back to the Memorial psychiatric hospital.

Petitioner received treatment at the International Association of Firefighters from May 13, 2023 – June 20, 2023. The nursing admission assessment note states that the reason for Petitioner's admission was "On April 30, 2023, I was having severe suicidal ideations at work and was planning to hang myself from the third story stairwell or overdose on narcotics through IV. I then decided to reach out for help and got the ball rolling to come here" (PX3, p. 1). The therapy records from 5/16/2023 state "His wife has asked him to go to therapy for years – he believes she thinks he has been chronically depressed. His friends have also expressed long-term concern for his mood/mental health. He feels he covered a lot of his mood up by working too much" (PX3, p. 71). During a discharge note from 6/20/2023, it was noted that Petitioner had minor symptoms of PTSD and reported some anxiety about returning to work and being back in the station house (PX3, p. 253).

After Petitioner was discharged from the IAFF Center of Excellence on 6/20/2023, he re-established care with the SIU Psychiatry Department. Petitioner testified that Dr. Shea retired and as such, he began treating with Mary Zielke, APRN. He first saw her on 7/14/2023. She diagnosed Petitioner with major depressive disorder and PTSD. She renewed Petitioner's medication and placed him out of work. Petitioner saw her again on 8/14/2023, 10/16/2023, and 11/16/2023. The record from 11/16/2023 notes that Petitioner was improving. However, he was still concerned about being able to return to work as a firefighter. Petitioner remained out of work.

Petitioner was last seen by Mary Zielke, APRN, on 1/04/2024. That record states "Loren states that he is wanting to return to work. He states that after the first of the year he will no longer be on administrative leave. Patient states that he did bid for a position that is on the slowest rig of the fire department. He states that this will limit exposure to more intense calls. Patient states that he feels he is ready to return to work. He states that PTSD symptoms have improved and he is not ruminating about past events like before or experiencing flashbacks." On that date, the Petitioner was released to full duty work starting on 1/08/2024 (PX4).

Petitioner testified that at the end of December of 2023, or early January of 2024, the chief was telling him that the City could not keep him on paid administrative leave indefinitely. That is when Petitioner hired his present attorney. Petitioner testified that shortly thereafter, he went to his family doctor, Dr. Bowers for a fit-for-duty evaluation and he testified that Dr. Bowers allowed him to return to full duty work. Petitioner testified that when he presented Dr. Bowers' full duty release to the City, he was advised that the City was scheduling him for a fit-for-duty evaluation with psychiatrist, Dr. Killian.

Dr. Terry Killian saw Petitioner on 1/24/2024 for a psychiatric examination. Dr. Killian's report notes that the City asked Dr. Killian to evaluate Petitioner regarding Petitioner's current psychiatric fitness to return to duty as a firefighter. Dr. Killian reviewed records from the SIU Psychiatric Department along with narrative reports involving Petitioner's suicidal ideation with plan on 4/30/2023. Regarding that incident, Petitioner advised Dr. Killian "They got crisis therapist and I knew that what I was saying would get me back into the hospital but I wasn't going back to hospital. Long and short is I convinced her (therapist) that my neighbor Geno (co-worker and neighbor) and my wife came and got me. So, Geno and Jessica drive in together and, oh, that same day they got in touch with the program in Maryland, the IAFF Center of Excellence. They started the process of getting insurance, etc. I couldn't get in until like third week of May and so I had calmed down" (PX2, p. 14). Dr. Killian diagnosed Petitioner with PTSD. It was Dr. Killian's opinion that Petitioner was not psychiatrically fit to return to work as a firefighter. Regarding other work, Dr. Killian opined "Although I do not believe Mr. Kunz is psychiatrically ready to return to his work as a firefighter, it is likely that he could work in a much less stressful job, probably even on a full-time basis" (PX2, p. 19).

Petitioner testified that following Dr. Killian's evaluation, the City did not allow Petitioner to return to work as a firefighter. They kept him on paid administrative leave until 4/29/2024. Petitioner testified that at that time he applied for duty disability with his Pension Board. As part of that process, Petitioner underwent several Pension Board independent psychiatric evaluations.

On 6/07/2024, Petitioner was seen by forensic psychiatrist, Dr. Philip Pan, for a Pension Board evaluation. Dr. Pan diagnosed Petitioner with PTSD which he related to his work as a firefighter. Dr. Pan did not believe that Petitioner could return to his duties as a firefighter (RX7).

On 6/10/2024, Petitioner was seen by forensic psychiatrist, Dr. Ryan Finkenbine, for a duty disability pension evaluation. Dr. Finkenbine diagnosed Petitioner with PTSD which he related to Petitioner's work as a firefighter. Dr. Finkenbine opined that Petitioner could not return to work as a firefighter (PX8).

Petitioner testified that he was awarded line of duty disability pension benefits following a hearing in late August of 2024. The Pension Board's final administrative decision awarded Petitioner duty disability pension benefits in the amount of \$61,889.62 per year beginning on 8/27/2024 (RX4).

At the request of the Respondent, Petitioner was seen for an independent medical evaluation by Dr. Mark Chapman on 9/11/2024. Dr. Chapman is affiliated with the Chicago Psychiatry Associates. Based on his evaluation, Dr. Chapman diagnosed Petitioner with PTSD which he related to Petitioner's work as a firefighter. Based on this diagnosis, Dr. Chapman opined that Petitioner cannot return to full duty as a firefighter (RX1).

Following Dr. Chapman's independent medical evaluation, Petitioner testified that he received a check for loss time benefits from the workers' compensation carrier.

Petitioner testified that presently he has anxiety and lacks motivation. Petitioner testified that this has affected his interaction with his family. Petitioner testified that he is currently not working. Petitioner believes that in March of 2022, he was making over \$100,000.00.

CONCLUSIONS OF LAW:

(J) Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?

At issue is whether Petitioner exceeded his choice of physicians by treating at the IAFF Center of Excellence

and whether the IAFF Center of Excellence was reasonable and necessary medical treatment.

The Arbitrator notes some conflicting evidence as to how Petitioner elected to seek treatment at IAFF Center of Excellence in Maryland. The Arbitrator also notes that this facility is run by Petitioner's union. However, Petitioner's unrefuted testimony indicates that this captain and the fire department safety officer directed Petitioner and facilitated his admittance to IAFF Center of Excellence. Based on this, the Arbitrator not only finds that Petitioner did not exceed his choice of physician, but also that his treatment at IAFF Center of Excellence was reasonable and necessary treatment.

Based on this, pursuant to the fee schedule, the Arbitrator finds Respondent liable for the medical bills listed in PX6. Respondent is to receive a credit for all payments that they made and that its group insurance paid pursuant to Section 8(j) of the Act.

(K) What temporary benefits are in disputed?

(M) Should penalties or fees be imposed upon Respondent?

(N) Is Respondent due any credit?

An employee is temporarily totally disabled from the time an injury incapacitates him until such time as he is as far recovered as the permanent character of the injury will permit. Archer Daniels Midland Company v Industrial Commission, 138 Ill. 2d 107, 118 (1990). To be entitled to TTD benefits, the employee must establish not only that he did not work, but also that he is unable to work and the duration of that inability to work. Pietrzak v. Industrial Commission, 329 Ill. App. 3d 828, 832 (2002). When determining whether an employee is entitled to TTD benefits, the test is whether the employee remains temporarily totally disabled as a result of the work-related injury and whether the employee is capable of returning to the workforce. Once an injured employee has reached MMI, the disabling condition has become permanent and he or she is no longer eligible for TTD benefits. Nascote Industries v. Industrial Commission, 353 Ill. App. 3d 1067, 1072 (2004). The factors to consider in determining whether an employee has reached MMI include a release to work, medical testimony, or evidence concerning the employee's injury, and the extent of the injury. Land End Lakes Company v. Industrial Commission, 359 Ill. App. 3d 582, 594 (2005).

The Arbitrator finds that Petitioner reached maximum medical improvement on 1/24/2024 following his evaluation by Dr. Terry Killian. On that date, Petitioner had undergone extensive treatment for his PTSD including a stay at the IAFF Center of Excellence. On that date, Dr. Killian opined that Petitioner would not be able to return to work as a firefighter but could return to a full-time job in another capacity. Subsequently, Petitioner applied for and was awarded line of duty disability pension benefits. Dr. Killian's opinion that Petitioner could not return to work as a firefighter was corroborated in pension IME reports from Dr. Pan and Dr. Finkenbine. No other work restrictions were imposed on Petitioner.

Petitioner offered no evidence that he has sought employment in any capacity subsequent to Dr. Killian's evaluation on 1/24/2024. The records reflect that Petitioner has voluntarily removed himself from the labor force.

Therefore, the Arbitrator finds Petitioner entitled to TTD benefits from 7/22/2022 – 1/23/2023 (the date that Dr. Shea released Petitioner to return to full duty work) and from 5/01/2023 – up until Petitioner reached MMI when he was seen by Dr. Killian on 1/24/2024 for a total of 64 6/7 weeks. 64 6/7 weeks at a TTD rate of \$1,202.80 totals \$78,010.00.

The Arbitrator notes that Petitioner was on paid administrative leave from 4/30/2023 – 4/29/2024 and received a net salary from Respondent of \$69,262.66 (RX2). Respondent also paid TTD benefits of \$19,244.50.

Therefore, Respondent paid lost time benefits in the amount of \$88,507.16. Respondent is entitled to a credit for overpaid TTD benefits in the amount of \$10,497.16 (\$88,507.16 - \$78,010.00).

Based on the above, the Arbitrator finds Respondent was not unreasonable or vexatious in their payment of benefits to the Petitioner and accordingly does not award section 19(k & l) penalties or 16 attorney fees.

(L) What is the nature and extent of the injury?

Pursuant to Section 8.1(b) of the Act, in determining the level of permanent partial disability, the Arbitrator must look at the following five factors.

With regard to factor (i) of Section 8.1(b) of the Act, the reported level of impairment pursuant to subsection (a), the Arbitrator notes that neither party offered into evidence a reported level of impairment and as such, the Arbitrator gives no weight to this factor.

With regard to factor (ii) of Section 8.1(b) of the Act, the occupation of the injured employee, the Arbitrator notes that Petitioner cannot return to work as a firefighter, but he is not prevented from returning to work in another capacity outside of a first responder role. Petitioner offered no evidence indicating that he has looked for work since being released to do so. The Arbitrator finds Petitioner's occupation to be a significant factor.

With regard to factor (iii) of Section 8.1(b) of the Act, the age of the employee at the time of the injury, the Petitioner was 38 years old at the time of the injury. The Arbitrator finds that his age is a moderate factor.

With regard to factor (iv) of Section 8.1(b) of the Act, the employee's future earning capacity, Petitioner was granted his pension disability benefits commencing on August 27, 2024 in the amount of \$61,889.62 per year. Petitioner has not made any attempt to return to work in any capacity since being released to do so by his medical providers. Therefore, while Petitioner's earning capacity will be impacted by his inability to return to work as a firefighter, the extent of this impact is unknown. The Arbitrator finds this to be a moderate factor in arriving at a finding of permanent disability.

With regard to factor (v) of Section 8.1(b) of the Act, evidence of disability corroborated by the treating medical records, Petitioner testified that he continues to have anxiety and lacks motivation. This is corroborated in the treating medical records. The medical records establish that Petitioner has medical restrictions that preclude him from performing firefighter duties. However, there is no evidence suggesting that Petitioner cannot work in any other capacity. The Arbitrator places great weight in this factor.

Given these factors, the Arbitrator finds that Petitioner is entitled to an award of 42% permanent partial disability to the person as a whole as provided in Section 8(d)2 of the Act.