

BLIND PENSION: Application may be made to probate judge  
or to the Commission.

November 5, 1941

Mrs. Lee Johnston  
Chief Investigator  
Missouri Commission for the Blind  
Capitol Building  
Jefferson City, Missouri

11-7



Dear Mrs. Johnston:

This will acknowledge receipt of your letter of  
October 29, 1941, in which you make the following  
request for an opinion:

"Please render an opinion on the  
following case. An application for  
blind pension was received from  
Arthur Lee Gadd of Lebanon, Missouri,  
which was filed by him before Phil M.  
Donnelly, Notary Public. Mr. Donnelly  
contends that it is legal for an appli-  
cant to appear before a Notary Public  
and submit his application direct to  
the Commission for the Blind without  
having the third page of the applica-  
tion filled out--certificate of Probate  
Judge, because of the wording of Section  
9454, Revised Statutes, 1939, which  
states: 'Any person who desires the  
benefits of this article shall apply  
to the judge of the Probate Court with-  
in his or her county or city or to the  
Commission for the Blind, who, if satis-  
fied that the applicant comes within  
the provisions of this article, shall  
grant to the applicant a certificate  
of such fact and the certificates granted  
by the probate judges shall be certified  
to the Missouri Commission for the Blind.

"Please advise whether this application received from Notary Public comes within the provisions of the law."

Section 9454, Article I, Chapter 54, R. S. Missouri, 1939, prescribes where application for blind pensions shall be made. This section is as follows:

"Any person who desires the benefits of this article shall apply to the judge of the probate court within his or her county or city or to the commission for the blind, who, if satisfied that the applicant comes within the provisions of this article, shall grant to the applicant a certificate of such fact and the certificates granted by the probate judges shall be certified to the Missouri commission for the blind at its office in St. Louis, Missouri, which shall consider the merits of such application and if approved by the commission, it shall certify same to the state auditor. All pensions payable under this article shall begin on the date of the filing of the application therefor before the probate judge or the commission, as may be. And whenever it shall become known to the commission that any person whose name is on the blind pension roll is no longer qualified to receive a pension, after reasonable notice mailed to such person at his or her last known residence address, such fact shall be certified to the state auditor and the name of such person shall be stricken from the blind pension roll: Provided further, any person who shall by gifts, secret disposition, or other means dispose

of any property in his or her possession in order to become wholly or in part within the provision of this article, shall be deemed guilty of a misdemeanor." (Underscoring ours)

In reading the above section, it is necessary to ascertain and give effect to the legislative intent. State ex rel. Lentine v. State Board of Health, 65 S. W. (2d) 943, 950.

"It may be considered trite to again observe that the primary and fundamental purpose in statutory construction is to ascertain and give effect to the legislative intent nevertheless such is always the end sought and the numerous rules for the interpretation or construction of statutes are merely aids in the quest. But such rules should not be so applied as to restrict or confine the operation of a statute within narrower limits or bounds than manifestly intended by the Legislature and whether the proper construction of a statute should be strict or liberal it certainly should be such as to effectuate the obvious purpose of its enactment and the evident legislative intent. \* \* \* "

Section 9454, supra, at first reading may not seem quite clear as to whether or not it was the intention of the legislature in enacting the section that applications for blind pensions could be made direct to the Commission for the Blind. Attention is called to the language underscored in the section, as set out herein, and particularly to the last underscored portion. It will be noted that the pension shall begin on the date the application is filed with the probate judge or the Commission.

Mrs. Lee Johnston

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To the writer, that seems to indicate clearly the intention of the legislature, that applicants for blind pensions might apply directly to the Commission.

CONCLUSION

It is the conclusion of this department that an application properly sworn to before a Notary Public, when received, may be filed by the Commission and the applicant accorded a hearing before the Commission.

Respectfully submitted,

W. O. JACKSON  
Assistant Attorney General

APPROVED:

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VANE C. THURLO  
(Acting) Attorney General

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