

WORKMEN'S COMPENSATION:
FIREMEN:

The provisions of Sections 87.005 and 87.006, RSMo 1969, relating to impairment of health of firemen, do not apply to the Missouri Workmen's Compensation Law.

August 3, 1970



OPINION NO. 421

Honorable A. Clifford Jones
Senator, Seventh District
9 Clermont Lane
Clayton, Missouri 63124

Dear Senator Jones:

We have for consideration your request for an opinion regarding whether or not Sections 87.005 and 87.006, RSMo 1969, are applicable under the Missouri Workmen's Compensation Law.

Section 87.005 provides:

"1. Notwithstanding the provisions of any law to the contrary, after five years' service, any condition of impairment of health caused by any disease of the lungs or respiratory tract, hypertension, or disease of the heart resulting in total or partial disability or death to a uniformed member of a paid fire department, who successfully passed a physical examination within five years prior to the time a claim is made for such disability or death, which examination failed to reveal any evidence of such condition, shall be presumed to have been suffered in line of duty, unless the contrary be shown by competent evidence.

"2. This section shall apply only to the provisions of chapter 87, RSMo 1959."

Chapter 87, RSMo, pertains to "Firemen's Retirement and Relief Systems" and is so captioned. The Workmen's Compensation Law is set out in Chapter 287, RSMo 1969.

Section 87.006, provides:

"1. Notwithstanding the provisions of any law to the contrary, and only for the purpose of computing retirement benefits provided by an

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established retirement plan, after five years' service, any condition of impairment of health caused by any disease of the lungs or respiratory tract, hypotension, hypertension, or disease of the heart resulting in total or partial disability or death to a uniformed member of a paid fire department, who successfully passed a physical examination within five years prior to the time a claim is made for such disability or death, which examination failed to reveal any evidence of such condition, shall be presumed to have been suffered in line of duty, unless the contrary be shown by competent evidence.

"2. This section shall apply to paid members of all fire departments of all counties, cities, towns, fire districts and other governmental units."

This Section specifies that it is "only for the purpose of computing retirement benefits provided by an established retirement plan, . . ."

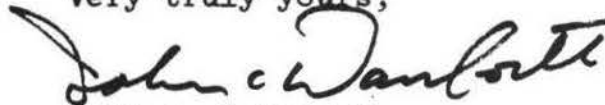
It appears that specific provision of each of the above sections precludes its application to the Missouri Workmen's Compensation Law.

CONCLUSION

It is the opinion of this office that the provisions of Sections 87.005 and 87.006, RSMo 1969, relating to impairment of health of firemen, do not apply to the Missouri Workmen's Compensation Law.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Carroll J. McBride.

Very truly yours,



JOHN C. DANFORTH
Attorney General