

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

In the Matter of the PERA Salary
Determinations Affecting Retired and Active
Employees of the City of Duluth

AFFIDAVIT OF DOUG BELANGER

OAH DOCKET NO. 4-3600-2080902

Allen Johnson, et al., Petitioners

STATE OF MINNESOTA)
) ss.
COUNTY OF ST. LOUIS)

Doug Belanger, being first duly sworn, on oath deposes and says:

1. I am a retired firefighter of the City of Duluth. I am a Petitioner in the above proceeding and make this Affidavit in support of my Petition for Review of the PERA salary determinations reducing my retirement annuity, and proposing that I pay back amounts previously received. I was employed by the City of Duluth subject to the collective bargaining agreement with the Firefighters between February 4, 1976 and November 1, 2004.

2. I retired effective November 1, 2004. I entered into substantial pre-retirement planning, and made the decision to retire in the summer of 2004. The City of Duluth provided me information about retirement benefits, and we were told our pension numbers were sent to PERA.

3. PERA provided us with the amount of our estimated benefit and our survivor annuity options. In reliance on the information given, I gave up a 3% more per year of employment. Each year that I worked, my pension would increase 3%. If I knew that my pension was going to be lower, I would probably have worked another year or so.

4. As part of my retirement, I also chose to purchase service credits for the time I served

in the military. I paid \$42,338.73 on May 24, 2004, to obtain a credit of one year eleven months of police and fire plan service.

5. On July 19, 2004, I received an estimate letter from PERA with information about survivor annuities (Exhibit 2).

6. On November 2, 2004, at the time of my actual retirement, I received another estimate and my first payment (Exhibit 3). That estimate indicates that when the City of Duluth provided the necessary information, PERA would “audit” my account and final calculations would be made.

7. On January 26, 2005, I received notice from PERA that my gross benefit would be \$4,205.66 per month, which was \$48.74 more than the prior estimate benefit I had been advised by PERA (Exhibit 4).

8. I received a 2.5% increase in that benefit effective January 1, 2006 (Exhibit 5). I also received other cost of living increases. On March 12, 2009, I received notice from PERA that PERA intended to reduce my pension amount which I had been receiving for 4 years. They claimed that employee contributions of \$942.40 were made on employer paid amounts totaling \$14,556.45 which were not salary for pension purposes (Exhibit 6). PERA claimed that my monthly benefit should be reduced by \$171.37, and the total amount of overpaid benefits is estimated to be \$8,064.58.

9. I received correspondence dated May 18, 2009, June 24, 2009, and June 25, 2009, from PERA indicating that my benefit would be reduced by \$171.37 to \$4,433.15.

10. Throughout my employment the deferred compensation payments were included as part of my gross salary, and also showed as a deduction on my paystub. The deferred compensation payment was part of my total compensation according to the collective bargaining agreement. I always knew I could withdraw the deferred compensation funds subject to penalty and tax, and that I was eligible to take loans from those amounts.

11. I would have made significantly different retirement plans if I knew my current annuity would be decreased by almost \$200 per month. I relied on PERA's final audited estimate for my retirement planning.

FURTHER YOUR AFFIANT SAYS NOT.

/s/ Doug Belanger

Doug Belanger

Subscribed and sworn to before me this
10th day of February, 2010.

/s/
Notary Public