

PENSION POINTERS



Appellate Court Clarifies When Disability Pensions Begin

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Illinois downstate firefighters' and police pension boards recently received important guidance from the First District Appellate Court in *Vokac v. Berwyn Police Pension Fund*, 2025 IL App (1st) 240338. The ruling resolves longstanding confusion about when disability pension benefits commence, particularly for members transitioning from PEDAs to workers' compensation.

In *Vokac*, a police officer was injured in the line of duty in March 2020. He remained off work and received Public Employee Disability Act ("PEDA") benefits until May 15, 2021. Once his PEDAs payments ceased, the officer began receiving temporary total disability ("TTD") benefits paid by the municipality's workers' compensation insurance carrier.

Along the way, the officer applied for a disability pension. The Pension Board ultimately awarded him a line-of-duty disability pension effective May 16, 2021, the day after PEDAs ended. The officer sued, arguing his pension should commence on a later date (which would result in a higher benefit calculation).

The case progressed to the First District Appellate Court, which clarified a longstanding issue troubling pension boards since the Third District's 2017 decision in *Sottos v. Firefighters' Pension Fund of Moline*, 2017 IL App (3d) 160481. In *Sottos*, the Third District held that a firefighter's disability benefit should begin once he stopped receiving TTD benefits. Importantly though, the *municipality*

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directly paid the TTD. This ruling created confusion on whether *all* TTD benefits kept members on the payroll for pension calculation purposes, even when they were paid by an insurance carrier rather than a municipality.

Vokac answers this question. The court determined a disability pension should be calculated from the moment when an employee no longer receives salary from the municipality. In so doing, the court observed that receiving PEDAs benefits counts as time on the municipal payroll. This is common sense, since PEDAs requires employers to continue paying injured employees on the same basis as they were paid before the injury.

However, the same is not true for TTD benefits from insurance carriers—those do not constitute municipal salary. When a workers' compensation carrier pays TTD, the member no longer receives compensation from the municipality. The court identified several factors that distinguished municipal salary from TTD. For one, TTD benefits equal only 66.66% of average weekly wages under the Workers' Compensation Act, not full pay. Further, the Pension Code specifically provides offsets for disability pensions when

members receive workers' compensation benefits, indicating these are distinct forms of compensation. Finally, the Pension Board's decisions on such matters are entitled to deference.

The *Vokac* decision now cabins *Sottos* to its unique facts, principally that the municipality paid TTD benefits (thus keeping the firefighter on the municipal payroll). When insurance carriers pay TTD benefits—the typical scenario—members are no longer receiving municipal salary.

With the benefit of *Vokac*, we now know that line-of-duty disability pensions should become effective when officers or firefighters stop receiving salary from the municipality. TTD benefits from insurance carriers will not extend time on the municipal payroll. Furthermore, *Vokac* demonstrates that courts will defer to pension boards in determining disability pension effective dates. This clarity will prove invaluable as fire and police pension boards navigate the complex landscape of disability pension commencement dates. ■