



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

CURT T. SCHNEIDER  
ATTORNEY GENERAL

December 5, 1978

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751

ATTORNEY GENERAL OPINION NO. 78- 377

Mr. John K. Corkhill  
Executive Secretary  
Public Employees Retirement System  
400 First National Bank Tower  
One Townsite Plaza  
Topeka, Kansas 66603

Re: Retirement--Police and Firemen's System--Prior Service  
Credit

Synopsis: An individual who was employed by the City of Topeka, Kansas, in its forestry department from October 17, 1960, and until July 17, 1977; who commences employment on July 18, 1977, as a policeman by the City of Shawnee, Kansas; and who is covered in both positions by the Kansas Public Employees Retirement System; and who is credited with prior service with the City of Shawnee for employment by that City prior to its entry date into the Kansas Police and Firemen's System on January 1, 1978, as authorized by the first sentence of K.S.A. 1977 Supp. 74-4956(1)(a), is entitled to additional prior service credit equal to "twelve (12) months of credit for each twenty-four (24) months of continuous service with other participating employers for continuous employment preceding service as a policeman or fireman," which service includes employment by the City of Topeka in its forestry department commencing October 17, 1960.

\* \* \*

Dear Mr. Corkhill:

You inquire concerning the crediting of prior service to a person with the following employment history. The individual in question

Mr. John K. Corkhill  
Page Two  
December 5, 1978

was employed by the City of Topeka in its forestry department commencing October 17, 1960, and until July 17, 1977. That position was covered by the Kansas Public Employees Retirement System. On July 18, 1977, the employee commenced employment with the City of Shawnee, Kansas, as a police officer. At that time, that position was likewise covered under the Kansas Public Employees Retirement System. On January 1, 1978, the City of Shawnee affiliated with the Kansas Police and Firemen's Retirement System (KP&F). He became a member of the KP&F on that date and received prior service credit for all of his service as a police officer with the City of Shawnee.

Since that time, the individual in question has suffered a heart attack, you have been advised, and may be disabled as a result thereof. His eligibility for service-connected benefits may turn upon the prior service with which he may be credited. Under K.S.A. 1977 Supp. 74-4952(10), members of KP&F who become disabled as a result of heart disease are entitled to service-connected benefits if they have five or more years of credited service. He has only sixteen months of credited service with the City of Shawnee. However, if he receives full or partial credit for his service with the City of Shawnee, he may be eligible to make application for service-connected disability benefits.

K.S.A. 1977 Supp. 74-4956(1) provides in pertinent part thus:

"Prior service shall be credited as follows:

(a) Each member shall receive full credit for all employment, whether or not continuous, as either a policeman or fireman prior to the entry date with his employer who is his employer on the entry date; for all continuous employment with the same employer other than either as policeman or fireman, immediately preceding such service as a policeman or fireman, the member shall receive twelve (12) months of credit for each twenty-four (24) months of service. Any member or retirant who has been credited with prior service as hereinbefore provided may apply to the board on such forms as it may prescribe for prior service credit with a participating employer under the Kansas police and firemen's retirement system other than his entry date employer. Each member shall receive full credit for all employment as either a policeman or fireman with such

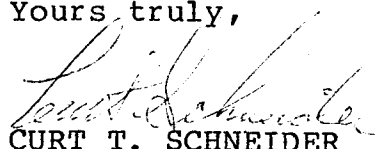
Mr. John K. Corkhill  
Page Three  
December 5, 1978

other participating employers and shall receive twelve (12) months of credit for each twenty-four (24) months of continuous service with other participating employers for continuous employment preceding service as a policeman or fireman."

The individual in question will have received full credit for his employment as a policeman with the City of Shawnee prior to the entry date of his employer, as specified in the first sentence. Accordingly, he is then entitled to apply for "prior service credit with a participating employer under the Kansas police and firemen's system other than his entry date employer," and he may receive either "full credit for all employment as either a policeman or fireman with such other participating employer," or "twelve (12) months of credit for each twenty-four (24) months of continuous service with other participating employers for continuous employment preceding service as a policeman or fireman."

The phrase which permits application for "prior service credit with a participating employer under the Kansas police and firemen's system other than his entry date employer" is not entirely unambiguous. In his employment with the City of Topeka, he was not under the police and firemen's system. Indeed, policemen of the City of Topeka were covered by the local pension plan established pursuant to K.S.A. 14-14a01 *et seq.* At the same time, however, the statute makes clear that the applicant may receive credit for service with other participating employers as other than a policeman or fireman. Construing the statute literally, for we find no reason to apply restrictive rules of statutory construction, it is my opinion that, having been credited with prior service with the City of Shawnee prior to its entry date, he is entitled to the additional prior service credit authorized by the third sentence of K.S.A. 1977 Supp. 74-4956(a)(1), *i.e.*, "twelve (12) months of credit for each twenty-four (24) months of continuous service with other participating employers for continuous employment preceding service as a policeman or fireman," which includes his service in the City of Topeka forestry department.

Yours truly,

  
CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj