

**Firemen, Temporary Disability Of—Pension, Who Entitled To.**

Firemen who are injured while not in actual service and who receive full salary during the time of temporary disability are not entitled to pension or benefit from disability fund.

March 30, 1920.

Hon. George P. Porter,  
State Auditor,  
Helena, Montana.

Dear Sir:

I acknowledge receipt of your letter of recent date, in which you enclose a letter from James A. Smith and Harry Hogan of the Great Falls Fire Department requesting that you advise them as to whether or not certain members of the Fire Department of Great Falls would be entitled to pension while being treated for minor injuries or undergoing minor operations, during which time they were allowed full pay by the City Council.

Under the provisions of Chapter 129, Session Laws of 1911, sick, injured or disabled firemen, who are members of the fire department relief associations, are, when its by-laws provide therefor, entitled to receive such an amount and in such manner as may be provided for in by-laws, not exceeding, however, one-half the sum last received as a monthly salary. I have examined the constitution and by-laws of the Fire Department Relief Association of the city of Great Falls which you submit, and which, I am advised, is not in force and effect.

I direct your attention to Section 1, Article 4 of the by-laws, which provides as follows:

“That in the event a regularly appointed and confirmed fireman of this fire department shall become temporarily injured or temporarily disabled while in actual service as a fireman that this association shall pay his necessary doctor bills and hospital bills and other necessary expenses directly resulting from such injury or disability.”

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Section 2 of Article 4 of said by-laws provides as follows:

"In the event of injury or disability as specified in the preceding section hereof and in the event *that City of Great Falls shall not pay such fireman any salary during such time as he is away* from duty because of such temporary injury or temporary disability then and in that event this association shall in addition to paying the expenses mentioned in the preceding section hereof, pay to such fireman a pension for the time he is off duty, which pension shall be at the rate of one-half of the salary received by him on the last preceding month before such injury or disability occurred."

Section 3 of Article 4, of said by-laws, provides as follows:

"In the event a regularly appointed and confirmed fireman of this fire department shall become sick because of exposures or which sickness is directly accused by services rendered as a fireman shall be paid in the same manner as is hereinbefore provided in sections 1 and 2 hereof, relating to temporarily injured or disabled firemen."

Section 4 of Article 4, of said by-laws, provides as follows:

"In the event of a regularly appointed fireman becoming sick or disabled so as to render him incapable of performing the duties as fireman, he must consider it his duty to notify the Secretary as soon as possible, and be it here resolved that in the event that such sickness does not result from the performance of actual duties as fireman, no member shall be entitled to draw benefits from this Association, for the first week of such sickness, or any fractional part thereof."

Section 5 of Article 4, of said by-laws, provides as follows:

"And in no case shall benefits be paid for periods of sickness resulting from intemperance, opiates, disorderly or immoral conduct, or while engaged in violation of any law."

Section 6 of Article 4, of said by-laws, provides as follows:

"Any member who may be taken sick and such sickness does not result from causes as stated in Section 5, and such sickness extends over one week from first day thereof shall be entitled to benefits as provided in Sections 1 and 2 of By-Laws and Constitution of Association."

By reason of the foregoing, you are advised it is my opinion that under the laws of the State of Montana and the Constitution and By-Laws of the Firemen's Relief Association of Great Falls, members who are not injured while in actual service as firemen and who receive full salary as firemen from the City of Great Falls during the time of such temporary disability, are not entitled to receive any benefit from the disability fund.

Respectfully,

S. C. FORD,

Attorney General.