

Pensions—Firemen's Relief Association—Widow's Pension.

The applicant is the widow of a deceased member of the firemen's relief association, as provided for in subdivision 5 of section 5135, chapter 58, laws of 1927, and entitled to a widow's pension. The association has recourse to the bond of the deceased member for reimbursement of the funds wrongfully appropriated by him.

February 18, 1928.

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

My dear Mr. Porter:

You have requested my opinion on the following question:

"Where a member of a fire department relief association who is treasurer of the association embezzles funds belonging to the association and commits suicide before being brought to trial, is his widow entitled to be paid a widow's pension from the pension fund of said association?"

This entire question is dependent upon whether the fireman was a member of the relief association at the time of his death.

I do not have a copy of the by-laws of the association in question, and I am assuming that there is no provision in the by-laws whereby a fireman who has embezzled part of the funds of the association automatically ceased to be a member. If this be true, some action on the part of the association would have been necessary in order to expel the guilty member.

From the facts of the case in question it is evident that the death occurred while the fireman was a member, and it is therefore my opinion that the applicant is the widow of a deceased member as mentioned in subdivision 5 of section 5135, chapter 58, laws of 1927, and entitled to a widow's pension, the association having recourse to the bond of the said deceased member for reimbursement of the funds wrongfully appropriated by him.

Very truly yours,

L. A. FOOT,
Attorney General.