

Opinion No. 152.

Fire department relief associations, abolishment of—voluntary fire departments, rights of members in relief association funds after volunteer department abolished.

Held: A member of a volunteer fire department abolished by the city government has no rights in the funds of the relief association.

November 15, 1943. ^c

Mr. John J. Holmes
State Auditor and
Ex-Officio Commissioner of Insurance
State Capitol
Helena, Montana

Dear Mr. Holmes:

You have requested my opinion on the following question:

“Would a member of the Kalispell volunteer fire department, who served continuously for forty years and until the dismissal of the department en masse in August, 1938, be entitled to a pension or other benefits from the fund originated by the volunteer department and built up with the help of state funds apportioned to the association?”

This question was answered in the negative by our Supreme Court in the case of *State ex rel. Casey v. Brewer, et al.* 107 Mont. 550, 88 Pac. (2d) 49.

In the case cited the question arose as to whether the treasurer elected by the new fire department relief association organized after the abolishment of the volunteer department by the city council, or the duly elected treasurer of the volunteer fire department Relief Association should have possession of the funds. The Court in holding that the former was entitled to possession of the funds, also held that the

members of the old volunteer relief association lost all rights to benefits in the funds. After quoting certain provisions of the statutes relating to fire department relief associations, the Court said:

“From this language it is clear that to participate in the affairs and enjoy the benefits of the relief association, a person would have to be a confirmed member of an organized fire department, or at least a member of a volunteer department recognized by the city or town council. It follows from this that a member of a department abolished by the city government could no longer qualify as an eligible member of the relief association.”

In conformity with the decision of our Supreme Court, it is therefore my opinion that a member of a volunteer fire department which was abolished by the city government, has no right to benefits in the relief association funds.

Sincerely yours,
R. V. BOTTOMLY
Attorney General