

ROBERT N. DAVIDSON

v.

MAINE STATE RETIREMENT SYSTEM

Submitted on Briefs December 20, 2000
Decided January 4, 2001

Panel: WATHEN, C.J., and CLIFFORD, RUDMAN, DANA, SAUFLEY,
ALEXANDER and CALKINS, JJ.

MEMORANDUM OF DECISION

Robert N. Davidson appeals from a judgment entered in the Superior Court (Kennebec County, *Marden, J.*) affirming a decision of the Board of Trustees of the Maine State Retirement System (Board), affirming the decision of the Executive Director of the Maine State Retirement System that, pursuant to 5 M.R.S.A. § 17929(2)((B)(1) (Supp. 2000), Davidson was able to engage in substantially gainful activity and that his disability payments would be discontinued as soon as he found employment. Contrary to Davidson's contentions, the Board neither erred nor acted beyond its discretion in admitting the testimony of the State Retirement System's Rehabilitation Program Supervisor, who testified as a vocational expert, *Me. M.S.R.S. Rule 702(11)(A), (D), Hale-Rice v. Me. State Ret. Sys.*, 1997 ME 64, ¶ 13, 691 A.2d 1232, 1236; the evidence was sufficient to support the Board's determination that Davidson failed to meet his burden of showing that he was not capable of engaging in substantially gainful

activity consistent with his prior training, education, or experience and average final compensation, 5 M.R.S.A. § 17929(2)(B)(1); the Board did not improperly consider evidence of Davidson's unrelated medical problems in reaching its decision; and the notice provided to Davidson concerning the date and time of the Board's hearing did not violate his right of due process.

The entry is:

Judgment affirmed.

Attorney for plaintiff:

Christopher J. Cotnoir, Esq.
Wheeler & Arey, P.A.
P O Box 376
Waterville, ME 04903-0376

Attorneys for defendant:

Andrew Ketterer, Attorney General
William H. Laubenstein III, Asst. Attorney General
6 State House Station
Augusta, ME 04333-0006