



**ILLINOIS SUPREME COURT FORBIDS DISCONTINUING PENSION
BASED ON LATER TERMINATION OF EMPLOYMENT**

On May 19, 2022, in *O'Connell v. County of Cook*, 2022 IL 127527, the Illinois Supreme Court held that a beneficiary's disability pension could not be discontinued solely because his employment had been terminated. This ruling protects beneficiaries and prevents agencies from expanding the list of events to discontinue pensions.

Plaintiff John O'Connell worked for defendant Cook County ("County") and participated in its Article 9 Pension Fund ("Fund"), which is administered by defendant Board of Trustees ("Board"). By 2017, O'Connell was disabled from working; he applied for and was granted an ordinary (non-duty-related) disability benefit that would expire in August 2021. However, after the County separated O'Connell from employment effective July 1, 2019, the Board stopped paying him benefits, and the County stopped contributing to the Fund on his behalf. O'Connell sued the County and the Board, arguing that his termination was not a basis to discontinue his benefits and contributions, and seeking an order for them to be retroactively reinstated and paid.

Before the Supreme Court, the parties' arguments focused on whether O'Connell, as a "former employee," should be treated as an "employee" under the relevant Article 9 provisions. However, the Court found these arguments "misguided." The Court focused on the eligibility criteria in the Pension Code section that governs ordinary disability benefits, 40 ILCS 5/9-157. That section provides that an individual must be an "employee" and "contributor," among other criteria, to be eligible for benefits. But when is an applicant's "employee" and "contributor" status decided? The Court wrote, "The applicant's status as employee and contributor ... is determined at the time of his initial application." Only at that time must the applicant be an "employee" and a "contributor". After eligibility is established, this status stops being relevant.

The Court also found it relevant that the Pension Code lists numerous events that discontinue a disability benefit. However, the Code does not provide that a later failure to meet initial eligibility criteria discontinues a benefit already granted. Once satisfied, eligibility criteria become irrelevant unless they are separately listed as events that discontinue a benefit. In O'Connell's case, nothing in Article 9 stated that separation from employment discontinued a benefit. Therefore, the Court held, O'Connell's failure to be an employee in 2019 was not a reason to discontinue his benefit.

O'Connell affirms the basic pension principle that eligibility criteria are evaluated only at the time of application. But more broadly, *O'Connell* affirms that agencies cannot expand the grounds to discontinue pensions. By enforcing the difference between eligibility criteria and events that discontinue benefits, the Court appropriately prevented an expansion of the latter - and prevented employers from terminating beneficiaries in order to stop their benefits. While *O'Connell* does not recognize any new protections for beneficiaries, it shows the Court will vigilantly prevent benefit-discontinuing events from expanding.

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