



STATE OF MINNESOTA
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WARREN SPANNAUS
ATTORNEY GENERAL

July 26, 1978

TELEPHONE
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The Honorable Joan Growe
Secretary of State of Minnesota
Room 180 State Office Building
St. Paul, Minnesota 55155

Re: Allers v. Board of Trustees of Public
Employees Retirement Association, et al.

Madam:

Enclosed for your information is copy of Order from
Ramsey County District Court dated July 24, 1978. Pursuant
to this Order, Joyce Boman served as Board member at Board
meeting of July 24, 1978.

Thank you for your attention.

Very truly yours,

Merwin Peterson

Merwin Peterson
Assistant Attorney General

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MP:bh

Enclosure

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
AUG - 2 1978

Joan Anderson Howe
Secretary of State

#31601

STATE OF MINNESOTA
COUNTY OF RAMSEY

DISTRICT COURT
SECOND JUDICIAL DISTRICT

John H. Allers,

Plaintiff,

vs.

ORDER DENYING
TEMPORARY INJUNCTION

Board of Trustees of the
Public Employees Retirement
Association, Orville Jorgenson
as Chairman of the Board of
Trustees of the Public
Employees Retirement Association,
Joan Anderson Grove as Secretary
of State of the State of Minnesota,
and Joyce M. Boman,

FILE NO. 428449

Defendants.

The above entitled matter came duly on for hearing before the undersigned at a Special Term of the above Court held at 2:30 o'clock p.m. on Monday, July 17, 1978, at the Ramsey County Courthouse, in the City of Saint Paul.

The matter was before the Court upon the Motion and notice thereof and Order to Show Cause made by the Honorable Archie Gingold June 22, 1978. By his motion, Plaintiff sought an Order granting a temporary injunction enjoining Defendants, their agents and assigns, from interfering, restricting, replacing, removing or attempting replace or remove, Plaintiff, John H. Allers, from serving and performing his duties as a member of the Board of Trustees of the Public Employees Retirement Association during the pendency of the above entitled action.

Lee A. Bernet appeared as counsel on behalf of Plaintiff in support of said motion. Merwin Peterson, Assistant Attorney General, appeared as counsel on behalf of Defendants, in opposition to said motion. Additionally, Mr. Edward Pica, a member of the Board of Trustees of the Public Employees Retirement Association, appeared.

The matter was submitted to the Court upon said Order to Show Cause and moving papers and documents attached thereto. Additionally, the Court was provided an affidavit from Joyce Boman and Merwin Peterson. Counsel for the parties each filed comprehensive legal memoranda in support of their respective positions. The matter was submitted to the Court upon the foregoing and upon the arguments of counsel. The Court has reviewed and considered all of the foregoing.

NOW THEREFORE IT IS HEREBY ORDERED:

1. That said motion seeking a temporary injunction be, and the same hereby is, in all things, denied.
2. That the Temporary Restraining Order entered herein June 22, 1978 by the Honorable Archie Gingold be, and the same hereby is, dissolved.
3. That this case be set down for trial as a date certain, commencing at 9:30 a.m. on Tuesday, September 26, 1978, or as soon thereafter as it can be reached.

The following Memorandum is made a part of this Order.


JAMES M. LYNCH
JUDGE OF DISTRICT COURT

DATED: This 24th day of
July, 1978.

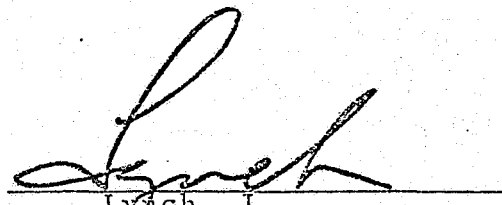
MEMORANDUM

Under Rule 65.02, Rules of Civil Procedure, a temporary injunction should not be granted unless it appears that sufficient grounds exist for the granting of such injunction. A temporary

injunction will be granted only if it appears that, among other things, there is an immediate prospect that the plaintiff will otherwise suffer irreparable injury.

The plaintiff, John H. Allers, has made no clear showing that he would suffer irreparable harm if a temporary injunction is not granted. The conduct sought to be enjoined must threaten real, substantial, and irreparable injury to a party's rights. Although Plaintiff, in his brief, alleges "irreparable harm to both Allers, individually, as well as to the constituency which elected him to the Board," it is the Court's conclusion that this allegation is unsupported by facts and is conjectural. Plaintiff's position on the Board is uncompensated. It appears clear that no harm will come to Plaintiff during the pendency of this action, and, certainly, no irreparable harm. See Independent School District No. 35 v. Engelstad, 274 Minn. 366, 144 N.W. 2d 245 (1966); Thompson v. Barnes, 294 Minn. 528, 200 N.W. 2d 921 (1972).

This Court recognizes the substantial importance of the controversy in question. This case requires an early determination. This action is a declaratory judgment action and is entitled to precedence on the trial calendar, and is therefore assigned the above trial date.


Lynch, J.