

**IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA**

CASE NO.: 2018-CA-5925

DIVISION: CV-F

JOHN KEANE,

Plaintiff,

vs.

**JACKSONVILLE POLICE AND FIRE
PENSION FUND BOARD OF TRUSTEES; and
THE CITY OF JACKSONVILLE,**

Defendants,

ORDER

THIS CAUSE came before the Court on May 28, 2020 on Plaintiff's Motion for Partial Summary Judgment filed on January 22, 2020, Plaintiff's Motion to Dismiss Amended Counterclaim filed on February 3, 2020, and Defendants' Amended Partial Motion for Summary Judgment filed on April 20, 2020.

The Court having reviewed the motions and responses, heard argument by the Parties, and being otherwise fully advised in the premises finds as follows:

1. Plaintiff's lawsuit arises from the discontinuation of pension benefits promised under his employment contract with the Jacksonville Police and Fire Pension Fund Board of Trustees (the "Board").
2. Plaintiff's employment contract incorporates by reference the Senior Staff Voluntary Retirement Plan ("SSVRP"), a pension plan created by the Board.

3. In September 2015, Plaintiff retired from employment with the Board and began receiving pension benefits under the SSVRP.

4. On May 9, 2016, Plaintiff's benefits under the SSVRP were discontinued and replaced with lower benefit payments calculated as if Plaintiff had enrolled in the City of Jacksonville's General Employees Retirement Plan when he began employment with the Board.

5. Defendants contend Plaintiff is not entitled to the pension benefits provided in his contract because the Board did not have authority to create the SSVRP.

6. By special Act, the Florida Legislature provided: "[t]he board shall have the power to: (5) employ and fix the compensation of an administrator and any consultants, attorneys, actuaries, accountants, and other employees or contractors as the board may require." Laws of Fla. Ch. 90-442; 92-341 *codified at* Jacksonville City Charter Section 22.04(5).

7. Pension benefits are a form of compensation. As such, the power to "fix compensation" necessarily includes the power to provide create benefits for the Board's employees and administer a pension plan for the purpose of providing said benefits.

8. Therefore, the Board had the authority to create the SSVRP. Furthermore, Plaintiff's employment contract—including provisions incorporating the SSVRP—is valid.

9. The Court finds disputed issues of material fact preclude summary judgment on all other issues, including Plaintiff's claims for estoppel and breach of contract.

10. The Court further finds dismissal of Defendants' Amended Counterclaim is improper.

Accordingly, it is **ORDERED and ADJUDGED**:

a. Plaintiff's Motion for Partial Motion for Summary Judgment is **GRANTED** as to the issues of whether the Board had the authority to create the SSVRP and whether Plaintiff's

employment contract was valid. On all other issues Plaintiff's Partial Motion for Summary Judgment is **DENIED**.

- b. Defendants' Amended Partial Motion for Summary Judgment is **DENIED**.
- c. Plaintiff's Motion to Dismiss Defendants' Amended Counterclaim is **DENIED**.

Plaintiff shall answer the Amended Counterclaim on or before June 8, 2020.



6/4/20

Eric C. Roberson
Circuit Judge

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