

IN THE CHANCERY COURT OF HAMILTON COUNTY, TENNESSEE

BOBBY DODD,

Plaintiff

vs.

CITY OF CHATTANOOGA,
CHATTANOOGA FIRE AND
POLICE PENSION FUND,

Defendant

DOCKET NO. 14-0739

PART _____

COMPLAINT

Comes now the Plaintiff, Bobby Dodd, and would show to the court as follows:

1. That the Plaintiff was employed by the Defendant City of Chattanooga, hereinafter "Chattanooga" beginning effectively in 1988 as a patrol officer. That on December 31, 2013, the Plaintiff retired holding the rank of Chief of Police.

2. The City of Chattanooga is a municipal government organized and sanctioned under the laws of the State of Tennessee.

3. The Chattanooga Fire and Police Pension Fund, hereinafter "Pension Fund", was created by the City of Chattanooga by legislative action to benefit fire and police who work for the City of Chattanooga. The Pension Fund is administered by a Board of Directors, hereinafter referred to as "Directors".

4. This lawsuit involves a dispute over the pension benefit being paid to the Plaintiff. In general, a police officer's pension is calculated based on an average of his highest three years of salary. The ability to take the pension is based on the years of service. The Plaintiff's benefit has been reduced for the Plaintiff taking the joint survivor option which allows his spouse to receive a portion of his pension benefits should he die before her.

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5. Jurisdiction and venue are appropriate in the Chancery Court of Hamilton County, Tennessee. The City of Chattanooga is situated in Hamilton County, Tennessee, and the Plaintiff lives in Hamilton County, Tennessee. All events depicted in this complaint occurred in Hamilton County, Tennessee.

6. When the Plaintiff was first employed by the City of Chattanooga, election of the joint survivor option cost the employee nothing out of their pension benefits. This was the case during the Plaintiff's entire period of employment up until shortly before he retired. This option allows for 50% of the pension benefits to go to the surviving spouse at no cost to the employee. For an employee to be eligible for this benefit cost free that employee must have been employed by the City prior to 1992. If an employee failed to elect one of the several options under the pension plan, the plan automatically defaulted to the joint survivor option. Some employees called it the "no option option". The pension board changed this provision unbeknownst to the Plaintiff requiring a 5% fee be charged out of the employee's monthly pension benefit for the joint survivor option unless the employee had 25 years of service. This results in a reduction in the Plaintiff's monthly pension benefit of 5% less than his formula for his full pension. The Plaintiff retired shortly after this change without being aware of it and was only a few months from twenty-five (25) years' employment at the time of his retirement. At the time of retirement, no employee or agent of the City or the Pension Fund advised him of the costs associated with electing this option.

7. The Plaintiff relied on the City's offer of the pension benefit as it was constituted at his employment as part of his employment agreement with them. The pension benefit at the time he was hired and throughout his service until shortly before his retirement included the joint survivor option without reduction in pension benefit. The Plaintiff asserts that he has a vested interest in this property right under the due process clause of the U.S. Constitution and the

Tennessee Constitution. The Defendants actions violate said property right. The Plaintiff further contends that the denial of his pension benefit without charge for the joint survivor option is a denial his rights to equal protection of the law under both United States and Tennessee constitutions by all Defendants.

8. The Plaintiff asserts his agreement to work for the City including the pension benefit as it existed at his hiring was a part of his contract of employment with the City. His acceptance of that payment and pension plan vests him with property rights in said benefits. The City and Pension Fund's actions constitute a breach of contract.

9. The Plaintiff asserts under the Tennessee Declaratory Judgment Act, T.C.A. § 29-14-101 et. seq., that this is appropriate case for the court to declare the rights of the parties. The Plaintiff asserts that the court should enforce his pension is originally offered and accepted by him without requiring the payment of 5% fee for the joint survivor option.

10. The Plaintiff asserts that he is entitled to damages for breach of his employment contract and the violation of his property rights in his pension benefits in the amount of the pension benefits he has lost during his retirement to be proven at trial. The Plaintiff asserts is entitled to prejudgment interest on this amount.

PREMISES CONSIDERED PETITIONER PRAYS:

1. That process issue and be served upon the Defendants to be answered in the time allowed by law.

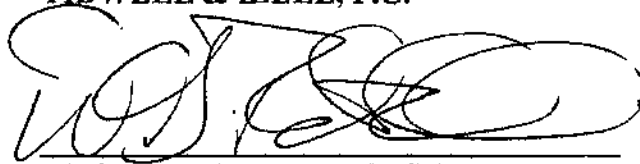
2. That the court declare the rights of the Plaintiff to be that he is entitled to receive his pension without a reduction for his selection of the joint survivor option.

3. That the Plaintiff be granted a judgment against the City of Chattanooga for the amount of pension benefits lost during his retirement including prejudgment interest.

4. That the court costs be taxed against the Defendants for which execution may issue if necessary.
5. General relief.

Respectfully submitted,

TIDWELL & IZELL, P.C.

A large, stylized handwritten signature in black ink, appearing to read "W. Gerald Tidwell, Jr.", is written over a horizontal line.

W. Gerald Tidwell, Jr., BPR# 10136

W. Adam Izell, BPR# 28438

Attorneys for the Plaintiff

P.O. Box 4369

Chattanooga, TN 37405

(423) 602-7511

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COST BOND

I hereby acknowledge and bind myself for the prosecution of this action and payment of all costs in this court which may at any time be adjudged against the Plaintiffs in the event said Plaintiffs shall not pay the same.

Witness My Hand this 19th day of November, 2014.

TIDWELL & IZELL, P.C.



Surety

W. Gerald Tidwell, Jr., BPR# 10136
P.O. Box 4369
Chattanooga, TN 37405
(423) 602-7511

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