COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss. **Division of Administrative Law Appeals**

Richard Ball,
Petitioner

Docket No. CR-25-0367

v.

Norfolk County Retirement System and **Public Employee Retirement Administration Commission**,
Respondent

Appearances:
For Petitioner: James Quirk, Jr., Esq.
For Respondent Norfolk County Retirement System: Matthew Feeney, Esq.
For Respondent Public Employee Retirement Administration Commission: Felicia Baruffi, Esq.

Administrative Magistrate:
Judi Goldberg

SUMMARY OF DECISION

Petitioner is a firefighter who retired after an echocardiogram revealed a thoracic aortic aneurysm for the first time many years after he began his job. Respondents denied his application for accidental disability retirement because he was unable to produce documentation of his pre-employment physical examination, relying instead on a post-employment physical examination that showed an elevated blood pressure reading. However, a physical examination makes the heart law presumption unavailable only if it discloses evidence of the same condition that later disables the member. The medical panel evaluated his application based on the thoracic aortic aneurysm, not elevated blood pressure, and correctly certified that he is entitled to retire for accidental disability under the heart law. G.L. c. 32, § 94.

DECISION

Petitioner Richard Ball timely appealed respondent Norfolk County Retirement System's denial of his application to retire with accidental disability benefits (ADR). I held and recorded a virtual evidentiary hearing on May 7, 2026, during which I admitted 16 exhibits. Mr. Ball and the Plainville town administrator, Brian Noble, testified on his behalf. At the end of the hearing, the

parties agreed that Mr. Noble would endeavor to find the town policy regarding pre-employment physicals and that Mr. Ball would seek additional information from his life insurance company regarding a pre-insurance physical that he underwent soon after starting his job. After the hearing, Mr. Ball proposed to have five additional exhibits entered into the record; neither respondent objected.[1] I now enter those five exhibits into evidence, for a total of 21 exhibits. The parties agreed that they would each file closing memoranda, which they did. I closed the record on June 12, 2026.

Findings of Fact

Based on the evidence in the record and reasonable inferences drawn from it, I make the following findings of fact:

1. Richard Ball worked for the Plainville Fire Department from March 2006 until April 2024, when he was last able to perform the essential duties of his position as the Fire Chief. (Stipulated facts 3, 7-8; Ex. 1.)

2. Before Plainville hired him, Mr. Ball underwent a pre-employment physical examination at the Davis Occupational Health in Dedham. Mr. Ball had his vital signs taken and they physician did not mention to him anything regarding elevated blood pressure, irregular heartbeats, or issues with his breathing. (Exs. 20, 21; Testimony.)

[1] The additional exhibits include an excerpt from the National Fire Protection Association (NFPA) medical standards for municipal firefighters (Ex. 17); the NFPA 1582 Disqualifying Medical Conditions (Ex. 18); Massachusetts Initial Hire Medical Standards from 2018 relating to Medical Standards for Municipal Fire Fighters (Ex. 19); an Affidavit from Mr. Ball relating to his conversation with his life insurance company, pre-employment physical, and the PAT (Ex. 20); and an Affidavit from Mr. Noble relating to his search for documentation of Mr. Ball's pre-employment physical (Ex. 21).

3. Plainville's town administrator, Brian Noble, and Mr. Ball tried to find documentation of Mr. Ball's pre-employment physical. They contacted Davis Occupational Health, the Civil Service Commission, and the fire academy; Mr. Nobel personally searched Plainville's records. For various reasons, none of these entities have any documentation from Mr. Ball's physical. (Exs. 2, 21; Testimony.)

4. In addition to having a pre-employment physical, Mr. Ball also had to take a physical abilities test (PAT). Mr. Ball could only have participated in this test if he had passed a pre-employment physical. He took and passed the PAT. (Exs. 7, 20; Testimony.)

5. Mr. Ball began working as a Plainville firefighter in March 2006. (Stipulated fact 8.)

6. Mr. Ball applied for life insurance in January 2008, nearly two years after the start of his employment. An examiner from the life insurance company reviewed Mr. Ball's medical records, came to his home, conducted a brief physical examination that included taking his blood pressure and pulse, and completed Mr. Ball's application. The examiner did not document Mr. Ball's blood pressure reading and checked the "no" box on the form in response to a question asking whether Mr. Ball had treatment for or diagnosis of "[c]hest pain, palpitations, high blood pressure, heart murmur, heart attack, or other disorder of the heart or blood vessels" within the past ten years. The only response to the question about whether he had had "an electrocardiogram, x-ray, or other diagnostic test in the past 5 years" was that Mr. Ball had blood work performed in 2006 for his job. (Exs. 7, 20; Testimony.)

7. Mr. Ball visited a doctor in October 2011, five and one half years after he began working for the fire department. The notes from that visit indicate that the medical staff took Mr. Ball's blood pressure twice, resulting in two different readings: 140/90 and 135/82. The doctor

listed under his assessment that Mr. Ball had "elevated blood pressure without diagnosis of hypertension." The doctor recommended that he continue with diet and weight loss. (Ex. 3.)

8. In December 2011, Mr. Ball visited a doctor for treatment of bronchitis. The doctor noted that he had a history of "elevated bp, good today" and recorded his blood pressure as 124/80. (Ex. 7.)

9. Mr. Ball had gastric bypass surgery in December 2020. Before the surgery, he underwent a 2D echocardiogram that did not disclose the presence of an aortic aneurysm. (Stipulated fact 11.)

10. He underwent an echocardiogram in March 2021, which was suspicious for a dilated aorta. (Stipulated fact 11.)

11. A second 2D echocardiogram in March 2022 documented for the first time that he had a 42 millimeter thoracic aortic aneurysm. (Stipulated fact 11.)

12. Mr. Ball's physicians placed restrictions on what he can and cannot do. For example, he cannot lift anything over 50 pounds; engage in strenuous activities; participate in rescue activities; climb ladders; carry hoses; endure exposure to smoke, toxins, or extreme heat; work for long periods under stress; go from rest to full motion; or shovel snow. These limitations prevent him from being able to perform all the essential duties as a firefighter chief. (Stipulated fact 6; Testimony.)

13. As the result of this diagnosis and the limitations on his activities, Mr. Ball went on desk duty in April 2022. However, as the fire chief, he was still "responsible for going on calls, putting my gear on, going into buildings, [and] helping with medicals[.]" He continued to go out on calls because Plainville has a small fire department and all its members must participate on

calls when necessary. There were times when Mr. Ball found himself responding to calls at people's homes by himself. (Testimony.)

14. In March 2024, he went out on a call for a structure fire and found himself having "to do something physical that I shouldn't be doing." (Testimony.)

15. The next morning he met with the Plainville town administrator to discuss a change in his employment status. (Testimony.)

16. Mr. Ball stopped working on April 3, 2024, and began receiving injured on duty pay. *See* G.L. c. 41, § 111F. (Stipulated fact 12.)

17. Mr. Ball applied for ADR benefits in May 2024. On his application, he listed a "dilated aortic root (aortic aneurysm)" as the disabling condition for his ADR application. (Ex. 1.)

18. Mr. Ball's cardiologist, Dr. Paul Bailey, completed a statement in conjunction with Mr. Ball's ADR application. He wrote that Mr. Ball's medical diagnoses are a dilated thoracic aorta, abnormal echocardiogram, and hypertension that Mr. Ball treated with weight loss. He stated that Mr. Ball's doctors first identified the dilated thoracic aorta in March 2022. He also listed the dates of several echocardiograms that confirmed the dilated thoracic aorta diagnosis. He wrote that Mr. Ball is incapable of performing the essential duties of his job because he is restricted from heavy lifting. He also wrote that Mr. Ball is permanently disabled and that he has reached the maximum amount of medical improvement. (Ex. 4.)

19. In connection with his ADR application, a regional medical panel examined Mr. Ball. (Exs. 12-14.)

20. One of the panel members, cardiologist Dr. Christopher Clyne, stated that Mr. Ball's ADR application was based on his aortic aneurysm and hypertension. He noted that the

American Heart Association and the American College of Cardiology recommend that "patients with thoracic aortic aneurysms avoid heaving strenuous lifting that would increase intraluminal pressure on the aorta and potentially lead to further dilation, risking aortic rupture." He stated that Mr. Ball is permanently disabled and incapacitated as a fire chief because "he is unable to lift heavy objects or engage in strenuous activity due to the thoracic aortic aneurysm that was not identified prior to his employment." He opined that the "absence of a documented aortic aneurysm in December 2020 would make it very unlikely that the thoracic aneurysm identified in 2022 was in any way due to a medication or pre-existing condition." He also noted that his thoracic aortic aneurysm and hypertension were both documented after his employment began. (Ex. 14.)

21. The second member of the panel, internist Dr. Michael Zack, noted that Mr. Ball's clinical diagnosis is aortic root dilation, which has been stable over the last several years. With this diagnosis, Mr. Ball "would be at greater risk of aortic rupture should he continue to perform the full duties of a fire chief as reviewed, in particular heavy [lifting]." Thus, Dr. Zack concluded that Mr. Ball is permanently disabled, unable to perform his duties, and satisfies the heart law presumption. (Ex. 12.)

22. Although the final member of the panel, cardiologist Dr. Michael Johnstone, agreed that that the basis for the ADR application is aortic root dilation, he opined that the ratio of the size of the aortic root dilatation to Mr. Ball's height is significantly less than the American Heart Association would consider to be abnormal. He concluded that Mr. Ball is not disabled from as working as a fire chief and is able to perform the essential duties of his job. (Ex. 13.)

23. Once the medical panel completed its work, the Norfolk County Retirement System (Norfolk) reviewed and approved Mr. Ball's application at its January 29, 2025, meeting. (Stipulated fact 20.)

24. However, the Public Employee Retirement Administration Commission (PERAC) remanded the matter back to Norfolk in a letter dated February 26, 2025. PERAC based its remand on the absence of documentation from the pre-employment physical. PERAC advised Norfolk to "obtain either Mr. Ball's pre-employment physical or a physical subsequent to his entry into service, but prior to the October 6, 2011 visit, that does not demonstrate hypertension or heart disease."[2] (Stipulated fact 19; Ex. 6.)

25. Norfolk responded to PERAC's letter on April 11, 2025, explaining that it disagreed with PERAC's remand and sent additional evidence regarding Mr. Ball's health around the time he began working as a firefighter, including the life insurance health form and summary from Mr. Ball's December 2011 doctor's visit. Norfolk also attached an affidavit from the former Plainville administrator in which he averred that it was the town's policy and practice when it hired Mr. Ball to require pre-employment physicals for firefighter applicants and that applicants had to

[2] It is unclear how Norfolk could "obtain" Mr. Ball's pre-employment physical; I infer that PERAC meant that Norfolk should obtain *documentation* from that physical. However, Section 94 requires only that the member have "successfully *passed* a physical examination on entry into such service, or subsequently successfully *passed* a physical examination[.]" It does not explicitly require any specific proof or documentation of the examination. Thus, testimony or other persuasive evidence about the examination is sufficient. *See generally Commonwealth v. Crouse*, 447 Mass. 558, 571 (2006) ("That there exists a difference of opinion as to the reliability of certain evidence does not necessarily make that evidence inadmissible."); *Commonwealth v. Gonsalves*, 429 Mass. 658, 668-69 (1999) ("Where . . . the evidence consists solely of oral testimony, the determination of the weight and credibility of the testimony is the responsibility of the judge.").

pass the physicals without high blood pressure or any predisposition to heart issues. He stated "it is the Town's confident belief that Richard Ball successfully passed his pre-employment physical with no blood pressure or heart concerns when he was hired in 2006." (Stipulated fact 20; Ex. 7.)

26. PERAC reviewed the material that Norfolk sent and again remanded to Norfolk in May 2025. (Stipulated fact 21.)

27. As a result of PERAC's May 2025 remand, Norfolk denied Mr. Ball's application for ADR on May 28, 2025. Norfolk informed Mr. Ball that it was seeking involuntary ordinary disability retirement for him. (Stipulated facts 22-23.)

28. In a letter dated June 4, 2025, Mr. Ball filed a timely appeal.

29. On November 5, 2025, the Division of Administrative Law Appeals granted Norfolk's motion to join PERAC as a necessary party.

Analysis

A retirement system member seeking ADR must show by a preponderance of the evidence that they are (1) unable to perform the essential duties of their job, (2) such inability is likely to be permanent, and (3) the disability resulted from a personal injury or hazard that occurred while the member was performing their duties at a specific place and time. G.L. c. 32, § 7(1); *Murphy v. Contributory Ret. App. Bd.*, 463 Mass. 333, 345 (1985). With respect to the third element linking the injury to the performance of the member's job duties, certain public-safety employees may rely on the "heart law," which provides that:

> [A]ny condition of impairment of health caused by hypertension or heart disease resulting in total or partial disability or death to a uniformed member of a paid fire

> department . . . shall, if he successfully passed a physical examination on entry into such service, or subsequently successfully passed a physical examination, which examination failed to reveal any evidence of such condition, be presumed to have been suffered in the line of duty, unless the contrary be shown by competent evidence.

G.L. c. 32, § 94. Thus, when a member satisfies the heart law's conditions, there is a rebuttable presumption that a work-related injury or hazard caused the member's hypertension or heart disease. *See Williams v. Norfolk Cnty. Ret. Bd.*, No. CR-03-556, at *3 (Contributory Ret. App. Bd. Dec. 23, 2004, and Apr. 2, 2007).

The first issue is the nature of Mr. Ball's disabling condition. The parties have devoted much time to the question of when Mr. Ball first developed hypertension. However, Section 94 refers to "any condition of impairment of health caused by hypertension *or* heart disease[.]" On his ADR application, Mr. Ball listed a "dilated aortic root (aortic aneurysm)" as the disabling condition for which he was filing for ADR. The physician statement that Mr. Ball attached to his application indicated that his medical diagnoses are a dilated thoracic aorta, abnormal echocardiogram, and hypertension that Mr. Ball had treated with weight loss; Dr. Bailey included a star next to the dilated thoracic aorta diagnosis. All three physicians on the medical panel who examined Mr. Ball noted his history of hypertension, but all three based their opinions about his ADR application solely on issues relating to his dilated aortic aneurysm. Finally, the parties agreed in their Joint Pre-Hearing Memorandum that Mr. Ball's ADR application "is based on heart-related conditions [sic] of a dilated aortic root aneurysm." Thus, the disabling medical condition at issue here is Mr. Ball's dilated aortic aneurysm, not hypertension.

The specific nature of Mr. Ball's medical condition is important for the analysis of the heart law presumption, which involves two questions: whether the member has a "condition of

impairment of health caused by hypertension or heart disease" and whether the member had a physical examination around the time they began employment "which examination failed to reveal any evidence of such condition[.]" G.L. c. 32, § 94. As there is no dispute about the nature of Mr. Ball's disabling medical condition, the only question to resolve is whether he had an examination around the time he began working as a firefighter that revealed evidence of his dilated aortic aneurysm.

It is undisputed that Mr. Ball's heart condition was first detected in 2022. None of the documentation from around the time Mr. Ball began working as a firefighter mentions a dilated aortic aneurysm. Neither the life insurance examination from 2008 nor the doctor's note from 2011 mention this condition. And neither an electrocardiogram from 2011 nor an echocardiogram in 2020 showed a dilated aortic aneurysm; it was not until 2022 that an echocardiogram identified this condition. This evidence, combined with Dr. Clyne's statement that the "absence of a documented aortic aneurysm in December 2020 would make it very unlikely that the thoracic aneurysm identified in 2022 was in any way due to a medication or pre-existing condition[,]" result in the conclusion that the heart law presumption applies. *See Shailor v. Briston Cnty. Ret. Bd.t*, CR-21-0343, 2024 WL 4491674, at *3 (Div. Admin. L. App. Aug. 16, 2024) (pre-employment physical revealed congenital valve defect but heart law presumption applied because disabling condition was hypertension of which there was no evidence during pre-employment physical); *Cabral v. Fall River Ret. Bd.*, No. CR-15-673 (Div. Admin. L. App. June 5, 2020) ("[T]he hypertensive findings reported in Petitioner's pre-employment physical do not nullify the Heart Law presumption . . . because there is no evidence in the record of a relationship

between the hypertensive indicators reported and the heart disease that caused his permanent disability.").[3]

Turning to the medical panel that examined Mr. Ball, two out of the three physicians found that Mr. Ball is permanently disabled as the result of the dilated aortic aneurysm. The medical panel was responsible for determining the medical questions that are beyond the common knowledge and expertise of the local retirement board and the Contributory Retirement Appeal Board. The medical panel's analysis is clear and they reached their conclusions after a review of Mr. Ball's medical records and work history. They conducted appropriate clinical examinations. They were aware of the demands of his job and the limitations that his diagnosis created, including not lifting heavy objects. None of the parties contend that the panel applied any erroneous standards. I credit the two members of the medical panel who independently concluded that Mr. Ball is permanently disabled by his condition and that he should avoid strenuous lifting that could lead to further aortic dilation and a risk of aortic rupture. I do not credit Dr. Johnstone who found Mr. Ball's condition to be less significant than the other two panel members and did not assess (or even mention) whether heaving lifting could result in an

[3] Even if elevated blood pressure or hypertension were the disabling condition, Mr. Ball testified credibly that he had a pre-employment physical that he "passed" but did not recall whether his blood pressure was normal. The Plainville town administrator wrote in an affidavit that Plainville would not have hired Mr. Ball if he had had high blood pressure. Mr. Ball also submitted the result of an examination that he underwent less than two years after he started working as a firefighter as part of his application for life insurance. That examiner documented that Mr. Ball did not have high blood pressure or other cardiac issues. Taken together, these facts are persuasive evidence that Mr. Ball did not have high blood pressure before or during the first two years of his employment as a firefighter. The presence of an elevated blood pressure reading three years later (more than five years after he began his job) does not have an impact on this conclusion.

exacerbation of his condition. Accordingly, I conclude that the medical panel correctly certified that Mr. Ball is entitled to retire for accidental disability under the heart law.

Conclusion and Order

Based on the reasons set forth above, Mr. Ball is entitled to ADR and the decision of the Board is hereby reversed.

Dated: July 31, 2026

/s/ Judi Goldberg
Judi Goldberg
Administrative Magistrate
DIVISION OF ADMINISTRATIVE LAW APPEALS
14 Summer Street, 4th floor
Malden, MA 02148
Tel: (781) 397-4700
www.mass.gov/dala