

Commonwealth of Massachusetts
Contributory Retirement Appeal Board

Matthew Combra
Petitioner-Appellee v.
State Board of Retirement,
Respondent-Appellant.
CR-18-2021

DECISION

Respondent State Board of Retirement (SBR) appeals from a decision of an administrative magistrate of the Division of Administrative Law Appeals (DALA), granting accidental death benefits to the petitioner Matthew Combra, on behalf of the estate of Manuel Combra, widower of Deborah Combra. The DALA magistrate heard the matter on April 15, 2021. The magistrate's decision is dated July 16, 2021. SBR filed a timely appeal to us.

After considering all the arguments presented by the parties and after a review of the record, we incorporate the DALA decision by reference and adopt the DALA magistrate's Findings of Fact 1- 32 as our own. We reverse the DALA decision. As difficult as the circumstances are in this appeal, we cannot find that Ms. Combra died as a result of and while in the performance of her work duties when she was returning from a meeting and was involved in an accident that ultimately took her life. The DALA decision is, therefore, reversed. ***Reverse.***

Background. Ms. Combra served as a Buyer IV/Procurement Manager for the Department of Mental Health (DMH), working out of the Brockton Multiservice Center. Her duties included buying commodities for the DMH.¹ Ms. Combra was previously supervised by Ms. Kimberly Dubois, a Procurement Manager for the Central Office of DMH. At the time of her passing, she was supervised by Mr. Eric Pilsmaker.²

¹ Finding of Fact 1-2.

² Testimony pp 6-7.

DMH buyers attended periodic meetings scheduled by Ms. Dubois. These meetings were generally held at the Hadley Building in Westboro, MA, a convenient, central location for the meeting participants.³ Ms. Dubois scheduled a meeting on October 3, 2017 from 10 a.m. until noon at the Hadley Building site.⁴ Ms. Combra went to her office that morning. She then drove herself and Ms. Maria Jette, a coworker, to the meeting in Westboro, MA.⁵ The meeting lasted approximately an hour and a half or an hour and forty-five minutes. At the conclusion of the meeting, the meeting participants decided to go to lunch at a restaurant a mile from the meeting location.⁶ The DMH policy allowed employees to have a half-hour lunch break if working more than six (6) hours.⁷ It was not known whether Ms. Combra was to work more than six (6) hours that day. According to the testimony of Ms. Dubois, the attendees continued to discuss work issues after they finished eating lunch. Work conversations also continued in the parking lot.⁸ Thereafter, Ms. Combra and Ms. Jette drove back to the Brockton Multiservice Center. While waiting to make a left turn into the parking lot of the office, she was rear-ended by another car, causing her to veer into oncoming traffic. Her car was hit by a truck, and Ms. Combra was ejected from her vehicle. She died from injuries sustained in that accident.⁹

On November 9, 2017, Mr. Manuel Combra, Ms. Combra's widower, filed an application for accidental death benefits pursuant to G.L. c. 32, § 9. He subsequently passed away before resolution of this appeal. As the administrator of Mr. Combra's estate, Mr. Matthew Combra, his son, was made the substitute party to pursue the claim on behalf of his Estate.

Discussion. G.L. c. 32, § 9 provides an accidental death benefit to be paid to "the beneficiary of any member in service, who died as the natural and proximate result of a personal injury sustained or a hazard undergone as a result of, and while in the performance of, her duties at some definite place and at some definite time on or after the date of her becoming a member ... without serious and wilful misconduct on her part." (Emphasis added). The Courts have held that the language for accidental disability retirement benefits ("as a result of and while in the

³ FF 3; Testimony p. 8.

⁴ FF 5, 7; Testimony pp 8-9.

⁵ FF 9-10, 12; Testimony p. 10.

⁶ FF 16-17; Testimony pp 11-12.

⁷ FF 27; Testimony p. 14.

⁸ FF 19, 22-23.

⁹ FF 29; Exhibit 5-7.

performance of work duties”) is “much more restrictive” than the language of workers’ compensation benefits pursuant to G.L. c 152 (“arising out of and in the course of ...employment”), *Namvar v. Contributory Ret. Appeal Bd.*, 422 Mass. 1004 (1996); *Richard v. Worcester Ret. Bd.*, 431 Mass. 163 (2000); *Damiano v. Contributory Ret. Appeal Bd.*, 72 Mass. App. Ct. 259 (2008), and according to the Supreme Judicial Court (SJC), this more restrictive standard demonstrates the Legislature’s intent to limit accidental disability retirement benefits to individuals, whose injuries result from the actual performance of their job duties. *Richard v. Worcester Retirement Bd.*, 431 Mass. 163, 164-165 (2000), citing *Boston Retirement Bd. v. Contributory Retirement Appeal Bd.*, 340 Mass. 109 (1959). This remains the SJC’s view.

To determine whether Mr. Combra is entitled to accidental death benefits, our consideration centers around whether Ms. Combra was engaged in the performance of her job duties when she was returning to her office and killed in an automobile accident. The Courts have determined that with injuries that occur in the course of travel, “if an employee were injured while going from one work place where the employee had an employment obligation to another such place, or while actually performing an employment duty during travel, then such injuries would satisfy the statute’s requirement that a disabling injury be sustained both ‘as a result of’ and ‘while in the performance of’ employment duties.” *Richard*, 431 Mass. 163, 165 (2000). Here, the magistrate concluded that Ms. Combra was engaged in one work obligation and was traveling to another work obligation, and therefore, met that more restrictive standard that she died “as a result of” and “while in the performance of” her work duties. Specifically, he found that when Ms. Combra attended a meeting on the morning of October 3, 2017, she was going to one work obligation. While she was not in the performance of her work duties when she was having lunch with the meeting participants, Ms. Combra was in the performance of her work duties when they engaged in a work discussion at the conclusion of lunch and while standing in the parking lot before traveling back to her office. In so deciding, the magistrate granted Mr. Combra’s application for accidental death benefits.

This appeal comes before us under very sad and difficult circumstances. While we very much sympathize for the individuals involved, CRAB is tasked with applying the law as it is written and must apply it in a manner consistent with the intent of the Legislature and case precedence. That being said, entitlement to accidental death benefits is applied strictly in that the member must have died from “the natural and proximate result of a personal injury sustained or a

hazard undergone *as a result of*, and *while in the performance of*, her duties” – a standard that follows the accidental disability retirement benefits under G.L. c. 32, § 7. These requirements are conjunctive. *Id.* Further, “[w]hether the disability complained of, as a basis for claim of accidental disability retirement benefits under state retirement system, is owing to an injury sustained ‘while in the performance of’ an employment duty is a factual inquiry particular to each case.” *Murphy v. Contributory Ret. Appeal Bd.*, 463 Mass. 333 (2012).

The language of the statute and its applications by the Courts direct us to draw a conclusion different from the magistrate when considering the particular circumstances of this case. In cases where an employee is injured during travel, the Courts have allowed accidental disability benefits where the employee is injured while going from one work place where the individual had a work duty to another such place. *Boston Retirement Bd.*, 340 Mass. 109 (1959); *Namvar*, 422 Mass. 1004 (1996); and *Richard*, 431 Mass. 163 (2000). The magistrate determined that when Ms. Combra was speaking with other meeting participants in the parking lot of the restaurant where they had lunch that she was engaged in a work duty. He reasoned that the work discussions that took place in the restaurant and in the parking lot of the restaurant were continuations of the primary meeting scheduled that morning. This is where we disagree with the magistrate, and in drawing a different conclusion, we must, consistent with the requirements of G. L. c. 30A, Section 11(8), provide “a considered articulation of the reasons underlying that rejection.” *Vinal v. Contributory Retirement Appeal Bd.*, 13 Mass. App. Ct., 85, 101-102 (1982); see *Morris v. Board of Registration in Medicine*, 405 Mass. 103, 110-111, cert. denied, 493 U.S. 977 (1989). Administrative decisions such as these must be based on substantial evidence as well as reasoned findings; this is what makes effective judicial review possible. *Vinal, supra*.

Here, we find that the evidence in the record does not establish that Ms. Combra was injured while in the performance of her work duties. Specifically, Ms. Combra was not performing work duties when discussing work issues in the parking lot of the restaurant where she just had lunch. There is a distinction that is to be made, as the SJC referred to in *Boston Retirement Board*, between “the actual performance of work and something incidental to such work.” *Boston Retirement Board*, 340 Mass. at 111. The work discussion in the parking lot was incidental to the work obligations Ms. Combra had that morning, despite the fact that Ms. Dubois stated there were additional non-pressing work issues to discuss. To find that the work discussion in the parking lot was an actual work duty “would stretch the meaning of the statute

beyond permissible limits,” *Id.*, and it is in keeping with the intent of the Legislature to limit accidental disability benefits to individuals whose injuries result from the actual performance of their job duties, that we arrive at this conclusion. *Boston Retirement Bd.*, 340 Mass. 109 (1959); *Namvar*, 422 Mass. 1004 (1996); and *Richard*, 431 Mass. 163 (2000).

Our review of the record leads us to conclude that any work duties undertaken by Ms. Combra ended at the conclusion of the meeting at which time she went to lunch with the meeting participants. Ms. Dubois testified that she scheduled the meeting from 10 a.m. to noon and that it lasted approximately an hour and a half to an hour and forty-five minutes. While it was not known whether she was scheduled to work more than six hours that day to be afforded a lunch break per DMH policy, we determine that the evidence demonstrates Ms. Combra was no longer engaged in work duties when the meeting concluded and the meeting participants, including herself, went to lunch. Any work obligations Ms. Combra had ended when she went to lunch. To further support our conclusion, Ms. Dubois testified that even though in the past she held meetings in the afternoon, on this particular occasion, she did not schedule an afternoon session due to the unavailability of conference room space. This demonstrates that Ms. Combra was not performing a work duty when she and the other meeting participants continued work discussions at the restaurant and in the parking lot of the restaurant.

Additionally, any evidence that typically demonstrated Ms. Combra was engaged in a work duty (at the restaurant and in the parking lot of the restaurant) was not present in the record. Specifically, Ms. Dubois testified that food was not provided by the employer.¹⁰ Moreover, she also testified that while notes were generally taken during meetings, no notes were taken by any of the meeting participants at the restaurant or in the parking lot when work issues were discussed. Further, while Ms. Dubois testified that the meeting continued after eating lunch to discuss additional work matters, she stated that the issues discussed were not pressing and none of the participants, including Ms. Combra, were required to attend the lunch, nor would they or Ms. Combra, would have been reprimanded if they failed to attend. When considering the totality of the evidence in the record, it demonstrates to us that Ms. Combra was not engaged in a work duty in the parking lot where she had lunch and therefore, she was not injured while at a work place where she had a work duty and then traveled to another such place. *Boston*

¹⁰ FF 13; Testimony p. 11.

Retirement Bd., 340 Mass. 109 (1959); *Namvar*, 422 Mass. 1004 (1996);, and *Richard*, 431 Mass. 163 (2000). Any work discussions Ms. Cambra had in the restaurant and in the parking lot of the restaurant were incidental to her work duties. We realize that this strict standard can yield harsh results for employees who sustained disabling injuries, and in particular, circumstances like this, where Ms. Cambra was involved in an accident driving back to her office, causing her death. *Id.* Nevertheless, the SJC states that "fairness demands that the provision of this section be applied to all, unless and until the Legislature relax the requirements of this benefit." *Id.* Allowing the magistrate's decision to stand would have us apply the statute in a way that undermines the Legislature's intent of a more restrictive application of this statute.

Conclusion. The decision of the DALA magistrate allowing Mr. Cambra's application for accidental death benefits is reversed. Mr. Cambra failed to meet his burden to prove that Ms. Cambra died from a personal injury sustained or a hazard undergone as a result of and while in the performance of her duties. Ms. Cambra was not going from a work place where she had a work duty to another such place when she was killed in an automobile accident. Mr. Cambra is not entitled to accidental death benefits pursuant to G.L. c. 32, § 9. **Reverse.**

SO ORDERED.

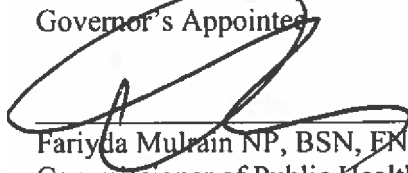
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Date: March 12, 2025