

COMMONWEALTH OF MASSACHUSETTS

DIVISION OF ADMINISTRATIVE LAW APPEALS

Stephen Drass,
Petitioner

v.

Docket No. CR-24-0361

**Plymouth County Retirement Board and
Public Employee Retirement Administration Commission,**
Respondents

Appearance for Petitioner:

Laurel Goldstein, Esq.

Appearance for Respondent:

Timothy J. Smyth, Esq., Plymouth County Retirement Board
Felicia Baruffi, Esq., Public Employee Retirement Administration Commission

Administrative Magistrate:

Kenneth Bresler

SUMMARY OF DECISION

Police officer who slipped, fell, and injured himself in a police department parking lot before the start of his shift was not on duty, was not injured as a result of his duties, and is not eligible for accidental disability retirement benefits, despite the police chief's testimony that police officers are on duty once they enter the parking lot, are on duty anywhere in the town, or both.

DECISION

The petitioner, Stephen Drass, appeals the denial of his application for accidental disability retirement benefits.

I held a hearing on July 9, 2025 by Webex, which I recorded. Mr. Drass testified, and called as a witness Timothy Hanlon, the Whitman Chief of Police. The questions of the Plymouth County Retirement Board (PCRB) to the two witnesses were intended to bolster Mr. Drass's case. (I discuss below PCRB's support of the petitioner, even though PCRB is a respondent.)

I admitted 15 exhibits; 13 exhibits are clearly marked in the joint prehearing memorandum. Exhibit 14 is the Manual of Rules and Regulations of the Whitman Police Department. Exhibit 15 is the collective bargaining agreement between the Town of Whitman and the Whitman Police Union, covering July 1, 2022 through June 30, 2025.

The parties filed their briefs on August 27, 2025. PCRB's brief supported Mr. Drass.

Findings of Fact

Stephen Drass

1. Mr. Drass was a police officer for the Town of Whitman for approximately 38 years.

(Drass testimony)

2. After an accident, which is described below, he did not return to work, and is now retired. (Stipulation, Drass testimony)

Accident

3. On February 2, 2021, Mr. Drass drove his personal vehicle to the Whitman Police Department and parked in the police personnel's parking lot. (Stipulation, Drass testimony)

4. Mr. Drass was wearing his full police uniform and carrying a radio that the police department had issued, a firearm that the department had authorized, and a pair of handcuffs. (Stipulation; Drass testimony)

5. Mr. Drass was there to report for the 8:00 a.m. shift. (Drass testimony)

6. At approximately 7:45 a.m., Mr. Drass got out of his vehicle, walked to the police station, slipped on ice, and injured his back. (Stipulation, Drass testimony, Ex. 2)

7. When Mr. Drass slipped and fell, there was no emergency in the parking lot. (Hanlon testimony)

8. On February 2, 2021, Mr. Drass signed a Report of Injury Received on Duty. He reported that on that day at 7:45 a.m., “When coming to work, I slipped on ice in parking lot.” (Ex. 2)

9. A regional medical panel unanimously determined that Mr. Drass is incapable of performing the essential duties of his job; his incapacity is likely to be permanent; and his incapacity is such as might be the natural and proximate result of his personal injury. (Stipulation)

10. Mr. Drass is permanently incapable of performing the essential duties of his job. (Stipulation)

Parking lots at the police station

11. The Whitman police station has two parking lots, one for police personnel, and one for members of the public. The two lots are separated by a chain-link fence. (Hanlon testimony)

12. The parking lot for police personnel is marked by a gate and a sign that reads along the lines of “No unauthorized access.” Members of the public don’t have access to the police personnel lot and if a member of the public were there, it would be a reason for concern. (Hanlon testimony)

13. When officers arrive for the 8:00 a.m. shift, the parking lot for the public is typically

empty of cars and people, as it was on February 2, 2021 when Mr. Drass slipped and fell at approximately 7:45 a.m. (Hanlon testimony)¹

14. As a Whitman police officer, Mr. Drass sometimes responded to emergencies in the police station's parking lot.² These emergencies were usually medical or domestic. For example: A person might overdose in a car in the parking lot. A person who could not get to the hospital or fire department might stop at the police station and ask for an ambulance to be called. A person in a domestic dispute might have driven to the police station for help, and the person's domestic partner followed the person. In addition, some parents might transfer to each other children who were the subject of custody orders; the parking lot had been specified by the court as the locale for the transfer. (Drass testimony) (However, most transfers of children happened in the police station lobby. (Hanlon testimony))

Police rules and regulations

15. The Manual of Rules and Regulations of the Whitman Police Department reads in part:

13. Duty Status: Although officers of the force are assigned specific hours of regular duty, they shall be considered "on-duty" at all times for the preservation of the public peace and the protection of life and property when in the Town of Whitman and shall be prepared to take all reasonable police action to accomplish this purpose. All serious matters of public concern shall receive appropriate attention, even though an officer is not on duty at the time.

(Ex. 14, pp. 16-17)

¹ This crucial information about the two separate parking lots came late in the hearing, during the last 20 minutes of a one-and-a-half hour hearing. Much of the testimony until then, including all of Mr. Drass's testimony, seemed premised on police personnel and members of the public's using the same parking lot, and led me to believe that there is only one parking lot.

² See previous footnote.

16. Neglect of Duty: Being absent from assigned duty without leave; leaving post or assignment without being properly relieved; or failing to take suitable and appropriate police action when any crime, public disorder or other incident requires police attention or service.

(Ex. 16, p. 22)

Other information about Whitman Police Department procedures and the day of Mr. Drass's injury

16. The police department does not have a time clock. The dispatcher manually signs in officers arriving for their shifts. (Hanlon testimony)

17. On February 2, 2021, Mr. Drass was scheduled to be the dispatcher. When he was injured, he had not signed himself into his shift. (Drass testimony)

18. If an incident occurred in the police department parking lot before the start of an arriving officer's shift and the officer did not respond, the department could discipline them for dereliction of duty. (Hanlon testimony)

19. An officer arriving early for their shift does not get paid for an early arrival or for overtime. (Hanlon testimony)

20. An officer who arrives early for a shift and who scans the parking lot for something amiss cannot put in for overtime pay. (Hanlon testimony)

21. Mr. Drass did not put in for overtime pay for arriving early for his shift on February 2, 2021. (Hanlon testimony)

Application and procedure

22. On December 31, 2022, Mr. Drass applied for accidental disability retirement benefits. (Ex. 1)

23. When asked to describe the incident, Mr. Drass wrote, “Slipped on ice getting out of my vehicle at the start of my shift.” (Ex.1)

24. When asked to describe the job duties he was performing at the time of the incident. Mr. Drass wrote, “I had just arrived to work for the start of my shift.” (Ex. 1)

25. On or about October 31, 2023, PCRB approved Mr. Drass’s application for accidental disability retirement benefits. (Stipulation)

26. On December 18, 2023, the Public Employees Retirement Administration Commission (PERAC) remanded Mr. Drass’s application to PCRB for further proceedings, finding that PCRB’s approval of the application was not supported by substantial evidence. PERAC wrote that

injuries suffered while traveling to work...whether on the employer’s property or not, cannot be considered within the performance of an employee’s duties.

(Ex. 7)

27. On March 29, 2024, Mr. Drass’s lawyer wrote a memorandum to PCRB, arguing why PERAC should agree that Mr. Drass had been on duty when he was injured. (Ex. 8) On or around that day, PCRB forwarded the memorandum to PERAC as its response to the remand.

(Stipulation, Ex. 9)

28. On April 16, 2024, PERAC again remanded Mr. Drass’s application to PCRB because PCRB’s approval was not supported by substantial evidence. (Ex. 9)

29. On May 8, 2024, PCRB denied Mr. Drass’s application for accidental disability retirement benefits. On June 10, 2024, PCRB informed Mr. Drass of the denial. (Ex. 10)

30. PRCB supported Mr. Drass’s application for accidental disability retirement benefits and denied it to allow him to appeal PERAC’s remand. (PCR Br. 1)

31. On June 13, 2024, Mr. Drass timely appealed. (Ex. 11)

32. On September 13, 2024, PCRB filed an assented-to motion to join PERAC as a necessary party. (Assented To Motion) On September 16, 2024, DALA granted the motion. (Stipulation)

Drass's testimony

33. Mr. Drass testified as follows, which I do not find as fact:

A. Mr. Drass's job duty as he walked from his vehicle to the police station was to surveil the parking lot to make sure that nothing was amiss. (Drass testimony) (As stated above, Mr. Drass did not specify which parking lot he meant.)

B. When Mr. Drass wrote in his injury report, "When coming to work, I slipped on ice in parking lot," he should have written, "When I arrived at work," because he was at work.

Hanlon's testimony

34. Chief Hanlon testified as follows, which I do not find as fact:

A. A Whitman police officer is on duty once they drive into the police parking lot.

B. A Whitman police officer is on duty anywhere in "the jurisdiction," that is, anywhere in Whitman; a Whitman police officer is on duty once they cross the line into Whitman.

C. The difference between a police officer's slipping and falling in the police department parking lot and the parking lot of a 7-Eleven in Whitman is proximity. A police officer is at the 7-Eleven for personal reasons, but is in the police parking lot to perform duties.

He said about the 7-Eleven, “If there’s no emergency going on...there’s no duties to perform if nothing’s happening.”

D. When asked if a Whitman police officer who lives in the town is always on duty, Chief Hanlon answered: Technically, no. Otherwise, the officer would never have a weekend off.

E. When asked whether an officer who drives 10 feet over the town line into Whitman, has an accident, and is injured, is on duty, Chief Hanlon said that he didn’t know how to answer that question.

F. When asked when a Whitman police officer is on duty – when they are in Whitman, when they enter the police station parking lot, or when they get out of their personal vehicle in the parking lot – Chief Hanlon answered: It’s a matter of availability.

G. When I asked if there was anything for a police officer to monitor at 8:00 a.m. in the parking lot for members of the public, Chief Hanlon answered:

If nothing's going on... there's nothing to monitor necessarily....I think we're trying to split hairs to get...the answer you're looking for and I don't know that I can do that.

He added, “If nothing occurs, there’s nothing to respond to.”

Discussion

The governing case

In *Victor Morales v. Lawrence Retirement Board and Public Employee Retirement Administration Commission*, CR-13-79, 2021 WL 12297893 (Contrib. Retire. App. Bd. Nov. 18,

2021),³ Detective Morales drove to the Lawrence Police station and, while entering the station, slipped, fell, and injured himself. CRAB wrote:

G.L. c. 32, § 7 “requires not only that the injuries must result from one's duties but that they must also be sustained ‘while in the performance’ of those duties. The requirements are conjunctive.” [*Murphy v. Contributory Retirement Appeal Bd.*, 463 Mass. 333 (2012).] The requirements of the accidental disability statute are strictly construed. [*Id.*] The causation requirement of this section require that the claimed injury must be sustained "during the actual performance of the duties that the employee has undertaken to perform on behalf of the public." [*Id.*]

... [C]ase law applying G.L. c. 32, § 7 clearly establishes that simply arriving at work is insufficient for accidental disability benefits.

....

...[C]ases have consistently found that in the context of police officers reporting to the station for duty, sustaining an injury on the way into the station is considered part of the officers travel into work and is insufficient to qualify for accidental disability benefits. For example, in *Civetti v. Plymouth Ret. Bd*, CR-16-411 (Feb. 22, 2019), a police officer was denied accidental disability retirement benefits when he slipped on ice in the parking lot prior to reporting for duty for the day, since “[a]n injury on the way into work does not make the employee

³ The case of *Victor Morales v. Lawrence Retirement Board and Public Employee Retirement Administration Commission* involved four administrative law decisions and one Superior Court decision. The discussion of *Morales* in this decision is of the fourth and last administrative law case, what can be termed *Morales IV*.

Morales I (Div. Admin. L. App. Oct. 23, 2015) found that Detective Morales drove his cruiser to speak to the father of a murder victim; drove to the Lawrence Police station; and, while entering the station, slipped, fell, and injured himself. Morales eventually applied for accidental disability retirement benefits, and the Lawrence Retirement Board denied the application. DALA reversed the denial, reasoning that the detective had been traveling from one job duty to another when he was injured.

In *Morales II* (Contrib. Ret. App. Bd. July 7, 2017), CRAB rejected DALA’s factual findings of when the detective’s shift had begun and that he had come from conducting an interview for a murder investigation before injuring himself. CRAB questioned the accuracy of the memories of the detective and fellow officers 10 and 13 years after events they purported to recall. CRAB reversed DALA’s decision. CRAB’s reversal did not turn directly on the law.

In *Morales III* (Contrib. Ret. App. Bd. March 5, 2019), CRAB responded to the Superior Court remand by asking the parties for post-remand briefs.

eligible for accidental disability retirement.” ...In another similar case, *City of Medford v. Medford Ret. Bd.*, CR-05-1320 (CRAB Aug. 3, 2006), a police officer was denied accidental disability benefits when he was injured opening the door to the police station to report for duty, since he had not yet reported to duty for the day. These examples, where police officers were injured on the way into work were found ineligible for accidental disability benefits, apply the well-established rule that the location of the individual who is injured is not dispositive of whether the injury occurred during the “performance of work.” Rather, “benefits may permissibly be awarded only when a disabling injury is sustained during the performance of work duties and *not merely as a result of being at work when injured.*”

....

...An applicant for disability retirement benefits has the burden of proving both that this personal injury was sustained "while in the performance of his duties" and "as a result of his duties." [*Id.*]

Id. (some citations omitted).

So too here. When Mr. Drass injured himself, he was not performing duties, and his injury was not a result of his duties. He was not traveling from one duty to another. He was arriving at work.

Mr. Drass tries to distinguish *Civetti* and at least another case by arguing that there does not appear to be any record evidence about when officers were considered to be ‘on duty,’ or ‘performing a job duty’ other than their scheduled shift start time.

(Drass Br. 11) However, in the instant case the evidence is weak and unpersuasive that Mr. Drass was on duty and performing a job duty when he was injured, as I discuss below.

Mr. Drass’s attempt to distinguish the decisions that are clearly against him is unavailing. Mr. Drass’s other arguments, including relying on Rule 13, are unavailing, as discussed below.

Rule 13: Duty Status

The rule reads:

13. Duty Status: Although officers of the force are assigned specific hours of regular duty, they shall be considered “on-duty” at all times for the preservation of the public peace and the protection of life and property when in the Town of Whitman and shall be prepared to take all reasonable police action to accomplish this purpose. All serious matters of public concern shall receive appropriate attention, even though an officer is not on duty at the time.

(Ex. 14, pp. 16-17)

This rule should not be read too hastily. It does not say what Mr. Drass suggests it says, namely, that a police officer is always on duty. The rule recognizes that police officers are *not* always on duty; look at the last half-sentence: “even though an officer is not on duty at the time.” Now look at the first sentence: police officers “shall be considered ‘on-duty’ at all times.” The phrase is doubly hedged; police officers “shall be *considered*” on-duty, with “on-duty” in quotation marks. Both hedges indicate that police officers are not truly on duty at all times. The rule recognizes in two separate locations that police officers are not truly on duty at all times.

When shall a Whitman police officer be “*considered* ‘on-duty’” in the doubly-hedged sense? When “public peace” needs to be “preserv[ed],” and of “life and property” need to be “protect[ed].” And in those circumstances, what must a police officer do? “[T]ake all reasonable police action” and pay “appropriate attention” to “[a]ll serious matters of public concern.”

What public peace needed to be protected when Mr. Drass walked from his vehicle to the police station? None. What life and property needed to be protected? None. What reasonable police action did Mr. Drass need to take? None. What appropriate attention did he need to pay? None. In other words, Mr. Drass was neither on duty nor “*considered* ‘on-duty’” in the doubly-hedged sense.

Chief Hanlon confirmed this analysis when he testified, “If there’s no emergency going on...there’s no duties to perform if nothing’s happening” and “If nothing's going on... there's nothing to monitor necessarily.”

But, Mr. Drass seems to be arguing, life and property *could* have needed his protection. He *might* have needed to take reasonable action. However, the rule doesn’t cover hypotheticals. To reiterate, Mr. Drass was neither on duty nor, under Rule 13, “considered ‘on-duty’” in the doubly-hedged sense.

Chief Hanlon knows that Rule 13 cannot mean that police officers are always on duty, and testified to that, in effect. When asked if a Whitman police officer who lives in the town is always on duty, Chief Hanlon answered: Technically, no. Otherwise, the officer would never have a weekend off. And he testified that a police officer at the 7-Eleven for personal reasons can be off duty.

Rule 13 is a red herring. I continue to discuss Mr. Drass’s other arguments.

Rule 16: Neglect of duty

The rule reads:

16. Neglect of Duty: Being absent from assigned duty without leave; leaving post or assignment without being properly relieved; or failing to take suitable and appropriate police action when any crime, public disorder or other incident requires police attention or service.

(Ex. 16, p. 22)

Chief Hanlon testified that if an incident occurred in the police department parking lot before the start of an arriving officer’s shift and the officer did not respond, the department could discipline them for dereliction of duty.

No “crime, public disorder or other incident” happened in the parking lot for members of the public when Mr. Drass arrived for his shift. Nothing required him to take “suitable and appropriate police action.” He did not “fail[] to take suitable and appropriate police action.”

It’s unclear why Mr. Drass has raised this rule. To say that *if* an incident had happened, he *would* have been required to respond to it appropriately, even though his shift had not started? It is true that he would have been required. That is not in dispute, but it is also not relevant, because no incident happened.

Did Mr. Drass raise this rule to argue that he could have been disciplined if he had not scanned the parking lot for incidents? The rule does not cover that contingency. The rule covers an officer’s being absent without leave (not an issue here); leaving an assignment without being relieved (not an issue here); and failing to respond to a crime, public disorder, or other incident (not an issue here).

Rule 16 is another red herring.

When is a Whitman police officer on duty?

Chief Hanlon testified both that a Whitman police officer is on duty once they drive into the police parking lot and that a Whitman officer is on duty anywhere in Whitman.

When I asked Chief Hanlon when a Whitman police officer is on duty – when they are in Whitman, when they enter the police station parking lot, or when they get out of their personal vehicle in the parking lot (because it’s hard for me to imagine that a police officer still in their vehicle can perform any duties) – Chief Hanlon did not answer. Rather, he said: It’s a matter of availability.

When asked the difference between a police officer's slipping and falling in the police department parking lot and the parking lot of a 7-Eleven in Whitman, Chief Hanlon answered: Proximity.

In response to one of my questions, Chief Hanlon said:

I think we're trying to split hairs to get...the answer you're looking for and I don't know that I can do that.

However, making distinctions and devising workable and meaningful definitions is what the law does.

When is a police officer on duty? The Whitman Police Department apparently doesn't have an answer. It cannot be, as Mr. Drass's post-hearing brief seems to argue, that a Whitman police officer is on duty whenever the police chief defines that they're on duty.

Mr. Drass's brief argues that I should defer to Chief Hanlon and just agree that Mr. Drass was on duty when he was injured. (Drass Br. 15) That "[t]he Chief considered him to be on duty" (Drass Br. 13) is not dispositive or significant in this case. A chief of police does not have the authority to override the Legislature, the courts, CRAB, DALA, and PERAC and determine state retirement law. A chief of police cannot carve out exemptions from state retirement law for his department.

Chief Hanlon said this about a police officer slipping and falling in the 7-Eleven parking lot: "If there's no emergency going on...there's no duties to perform if nothing's happening." This observation applies as well to the police department parking lots. There was no emergency in the police department parking lots when Mr. Drass fell. Therefore, he had no duties to perform and was not on duty before his shift began.

Mr. Drass knew that he was not working when he slipped

On the day of his injury, Mr. Drass wrote in an injury report, “*When coming to work*, I slipped on ice in parking lot.” (Ex. 2) (emphasis added) He did not write something like, “At the start of my shift” or “Just after I started to work...”

In his application for accidental disability retirement benefits, when asked to describe the job duties that he was performing at the time of the incident, Mr. Drass wrote, “I had just arrived to work for the start of my shift.” (Ex. 1) That statement is significant for two reasons. One, Mr. Drass acknowledged that he had not started working yet; rather, he had *just arrived* to work. Two, Mr. Drass did not describe the job duties at the time of his injury, as the application asked him to do – because he had none. Mr. Drass did not describe scanning the public parking lot for incidents as his job duty at the time of his injury.

As DALA said in *Morales I*, a pronouncement that survived later decisions in the case:

Written reports of injury play a key role in evaluating accidental disability retirement claims. Disability retirement applications are signed under the pain and penalties of perjury. Applicants may be held to the description of the circumstances they provide in an application. Thus, when an applicant wrote that he slipped on ice “while walking into work to start day,” he was held to his representation he had sworn to and the denial of his accidental disability retirement application was affirmed. *Soos v. State Board of Retirement*, Docket No. CR-12-210 (Mass. Div. of Admin. Law App., Dec. 6, 2013).

Morales I (Div. Admin. L. App. Oct. 23, 2015).

I hold Mr. Drass to his representations.

The two parking lots

I was surprised to learn more than an hour into the hearing that the parking lot that the witnesses were testifying about was actually two parking lots, separated by a fence. This would have been information that put the testimony up to that point in context. The testimony would

have also been put into context by information that the public parking is generally empty at the start of the 8:00 a.m. shift.

It is not as if Mr. Drass walked through a parking lot where divorced parents transferred children, people experienced drug overdoses and other medical emergencies, and feuding domestic partners confronted each other, as testimony led me to believe. He walked through a different parking lot. It is not even as if Mr. Drass walked through a parking lot *next to* a second parking lot where those things were *likely* to happen at the start of his shift. Not only did those things not happen then, they were not likely to happen then, before the start of the 8:00 a.m. shift.

How far was the public parking lot from where Mr. Drass fell? How easy or hard was it to monitor the public parking lot from the parking lot for police personnel? The answers are not in the record, even though this case is Mr. Drass's to make. *Bagley v. Contributory Retirement Appeal Board*, 397 Mass. 255, 258 (1986).

I find it not credible that as Mr. Drass walked from his vehicle to the police station, he surveilled a separate parking lot, which was probably empty, at an unknown distance using an unknown viewpoint to ensure that no incident was happening there.

Essential job duties

In his post-hearing brief, Mr. Drass argued:

It is...significant...that...Chief Hanlon considers officers to be on duty as they enter the parking lot before the scheduled start times for their shifts....Under 840 CMR 10.21, PERAC defers to employers to determine essential job duties for the purpose of determining whether an employee is disabled: "The determination of what constitutes an essential duty of a job or position is to be made by the employer, based on all relevant facts and circumstances..." Because the regulation requires PERAC to defer to an employer about what constitutes "an essential duty of a job," PERAC should also defer to employers about *when*

employees are performing those duties for the purpose of determining whether employees were in the performance of an essential job duty when an allegedly disabling injury occurs. If employers determine the “what” of essential duties but not the “when,” there is doubt about whether PERAC is properly deferring to employers under 840 CMR 10.21.

(Drass Br. 15) This argument is seriously flawed for multiple reasons.

Mr. Drass is correct that under “840 CMR 10.21, PERAC defers to employers to determine essential job duties *for the purpose of determining whether an employee is disabled.*” (Emphasis added) Mr. Drass’s argument then shifts into an employer’s determination of essential duties “for the purpose of determining whether employees were in the performance of an essential job duty *when an allegedly disabling injury occurs.*” (emphasis added) Those two purposes are not the same. The first purpose is in the regulation and deserves PERAC’s deference to an employer. The second purpose is not in the regulation and does not deserve deference. It is for a finder of fact to determine whether the member was performing an essential duty when injured.

Mr. Drass’s argument misreads the regulation in another important way. 840 CMR 10.21 reads in part:

The determination of what constitutes an essential duty of a job or position is to be made by the employer....The employer will identify and delineate the duties the employer deems to be essential to the job....

If the Whitman Police Department has determined that a police officer’s scanning the public parking lot as the officer walks to the police station is an essential duty, when and how did the department “identify and delineate” that duty as essential? If the department has done so, it is not in the record. For Chief Hanlon to *testify* before DALA that a police officer’s *shift begins when they enter the parking lot* is not the same as the Whitman Police Department’s or

Chief Hanlon's *determination* under the regulation that *a police officer's scanning a parking lot* as the officer walks to the police station is an essential duty.

For what it's worth, the Whitman Police Department did not identify a police officer's scanning the public parking lot as the officer walks to the police station as an essential duty in either the department's rules or regulations or the collective bargaining agreement. (Exs. 14, 15)

Even if the Whitman Police Department or Chief Hanlon had formally determined under the regulation that a police officer's scanning the public parking lot on the way to the police station is an essential duty, that determination would not affect this case. If Mr. Drass can no longer perform that supposedly essential job duty, it indicates that he is disabled – which no party disputes – not that he was performing an essential duty when he was injured.

Being in uniform, not being eligible for overtime pay, not being signed in

The fact that Mr. Drass was in uniform and carrying items necessary for his shift does not prove that he was on duty or performing duties.

If two uniformed police officers hypothetically were engaging in horseplay in a police station as in *Damiano v. Contributory Retirement Appeal Board*, 72 Mass. App. Ct. 259 (2008), they would not be performing duties.

A police officer in Whitman, off duty and out of uniform, who hypothetically witnessed a car crash or bank robbery, might suddenly come onto duty under Rule 13. A hypothetical police officer, off duty and out of uniform, might self-activate or "on-site" himself, *Richard Benoit v. Boston Retirement Board and Boston Public Health Commission*, CR-16-426, (Div. App. L. App. Oct. 5, 2018), and come onto duty. That is not what happened here.

Stronger evidence about Mr. Drass's duty status is that he was not eligible for overtime pay for scanning an adjacent parking lot as he walked to work. That demonstrates that he was not performing a duty when he was injured.

The fact that he had not been signed into his shift is also evidence that he was not on duty.

Lamont v. Middlesex County Retirement Board

I am aware of *Augustus Lamont v. Middlesex County Retirement Board*, CR-98-807 (Div. Admin. L. App, Feb. 18, 2000), which held that a police sergeant who slipped, fell, and injured himself in the parking lot of his police station had been injured on duty and was eligible for accidental disability retirement benefits. It does not govern the instant case for multiple reasons, including these:

The case examined whether the police sergeant was performing his duties, but not whether he had been injured as a result of his duties.

Even though the sergeant was in the police station's parking lot, the decision found that he had come on duty by filling in for a coworker. That is not the case here.

Conclusion and Order

The denial of Mr. Drass's application for accidental disability retirement benefits is affirmed.

Dated: April 17, 2026

/s/

Kenneth Bresler
Administrative Magistrate
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