

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

**Division of Administrative Law Appeals**

**Tiesha Gibson-Rock,**  
Petitioner

v.

Docket No.: CR-21-0180  
Date Issued: Jan. 12, 2024

**Boston Retirement Board,**  
Respondent

**Appearance for Petitioner:**

*Pro se*

**Appearance for Respondent:**

Natacha Thomas, Esq.  
Boston Retirement System  
Boston City Hall, Room 816  
Boston, MA 02210

**Administrative Magistrate:**

Kenneth J. Forton

**SUMMARY**

Surviving spouse is not entitled to G.L. c. 32, § 9(1) accidental death benefits because the member's death from metastatic bladder cancer is not the natural and proximate result of the coronary artery disease for which the member was retired under G.L. c. 32, §§ 7(1) and 94.

**DECISION**

On May 5, 2021 Petitioner Tiesha Gibson-Rock timely appealed under G.L. c. 32, § 16(4) the April 20, 2021 decision of Respondent Boston Retirement System denying her application for G.L. c. 32, § 9(1) accidental death benefits. On January 13, 2022,

DALA ordered the parties to file pre-hearing memoranda and proposed exhibits. On May 13, 2022, Ms. Gibson-Rock filed her memorandum and 4 proposed exhibits. (Exs. A-D.) After considering an additional document that Ms. Gibson-Rock submitted, on August 21, 2023, the Board filed its pre-hearing memorandum and 11 proposed exhibits. (Exs. 1-11.) On the same date, the Board also moved DALA for summary decision. Ms. Gibson-Rock filed her opposition to the Board’s motion on August 28, 2023.

**FINDINGS OF FACT**

The following facts are not in dispute:

1. Wayne Rock was employed as a detective with the City of Boston Police Department for 23 years until he retired for ordinary disability on November 10, 2008. (Ex. 1.)

2. Mr. Rock also applied for accidental disability retirement under G.L. c. 32, § 7 and the Heart Law, G.L. c. 32, § 94.<sup>1</sup> A three-physician medical panel determined that he was permanently disabled from the duties of a police detective by three-vessel coronary artery disease and status post triple bypass surgery. On October 26, 2009, he was awarded accidental disability retirement under the Heart Law presumption. (Exs. 2, 3.)

3. Mr. Rock died on December 28, 2017 in Georgia. (Ex. 4.)

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<sup>1</sup> The Heart Law presumption provides, in pertinent part, that “any condition of impairment of health caused by hypertension or heart disease resulting in total or partial disability or death to a . . . permanent member of a police department . . . shall, if he successfully passed a physical examination on entry into such service, . . . be presumed to have been suffered in the line of duty, unless the contrary be shown by competent evidence.” G.L. c. 32, § 94.

4. His death certificate, dated January 4, 2018, listed his “immediate cause” of death (defined as “final disease or condition resulting in death”) as metastatic bladder cancer. It listed no “significant condition[s] contributing to death but not related to” the immediate cause of death. (Ex. 4.)

5. On January 31, 2018, Ms. Gibson-Rock applied for G.L. c. 32, § 9 accidental death benefits. (Ex. 5.)

6. The Board submitted the application to Dr. Christine Campbell Reardon for independent medical review. She concluded:

Based upon the medical records provided for review, it is my medical opinion that Mr. Wayne Rock died as the direct consequence of metastatic bladder cancer. He was diagnosed with bladder and prostate cancer and [in] 2015 he had aggressive therapy that included chemotherapy, radiation and surgical resection. Unfortunately, despite this aggressive care, Mr. Rock’s cancer progressed and was not cured. Mr. Rock was retired from the Boston Police Department in 2008 because of coronary artery disease for which he had coronary artery bypass surgery. Mr. Rock had a cardiac evaluation completed prior to his surgery for his bladder/prostate cancer in 2015. Mr. Rock was cleared for surgery based upon a cardiac stress test. Mr. Rock did not have ongoing issues with coronary ischemia following his coronary artery bypass surgery, likely due to his excellent compliance with his medications and lifestyle modifications (exercise, non-smoker). It is my opinion that Mr. Rock’s death from metastatic bladder cancer was not the natural and proximate result of the coronary artery disease for which Mr. Rock was retired from the Boston Police Department.

(Ex. 6.)

7. On February 28, 2018, the Board denied Ms. Gibson-Rock’s application for accidental death benefits. Ms. Gibson Rock appealed the Board’s decision. That appeal, CR-19-0180, was dismissed because the Board failed to provide her appeal rights. The Board re-issued its decision with appeal rights on April 20, 2021. On May 5, 2021, Ms. Gibson-Rock timely appealed. (Exs. A, B, 7, 8.)

8. On February 1, 2022, Dr. Charlotte Grayson-Mathis, Mr. Rock’s primary care physician, requested the Georgia State Office of Vital Records to add coronary artery disease as a “contributing condition” of Mr. Rock’s death. (Ex. C.)

9. After the appeal was filed, the parties agreed to stay the appeal so that the Board could review additional documents submitted Ms. Gibson-Rock. (Ex. 9.)

10. Among the additional documents submitted was an amended death certificate that listed coronary artery disease as a “significant condition contributing to death but not related to” the immediate cause of death. (Exs. D, 10.)

11. The Board sent the amended death certificate and other medical records to Dr. Reardon for her further review and medical opinion. (Ex. 11.)

12. In a further opinion, Dr. Reardon noted:

The additional records provided for review show that Mr. Rock was admitted to Piedmont Fayette Hospital 12-4-17 for evaluation of confusion and lethargy. The physicians diagnosed Mr. Rock with sepsis from a urinary tract infection caused by enterococcus. His mental status changes were caused by the infection and resolved as the infection was treated. In addition, Mr. Rock had evidence of acute kidney injury when he was admitted and this also improved with the administration of intravenous fluids. The medical notes during this admission note that Mr. Rock had a history of coronary artery disease and that this disease was stable.

...

In reviewing the records provided, including the amended death certificate and the Piedmont Fayette Hospital admission, it is my medical opinion that retired Boston Police Detective Wayne Rock died as a consequence of metastatic bladder cancer. The amended death certificate lists coronary artery disease as a contributing condition but that it was not related to the cause of death. The last hospitalization for Mr. Rock was due to sepsis from a urinary tract infection. The medical records during that admission state that he had coronary artery disease but it was stable. There was no documentation that Mr. Rock’s coronary disease had progressed. Mr. Rock’s coronary disease was being managed with medical therapy and did not preclude Mr. Rock from undergoing surgery,

chemotherapy, immunotherapy or radiotherapy for his bladder cancer. . . . Mr. Rock died following a valiant battle against metastatic bladder cancer, which was not the medical condition for which he was retired from the Boston Police Department.

(Ex. 11.)

13. After reviewing Dr. Reardon’s additional medical opinion, the Board continued to maintain its position that Ms. Gibson-Rock was not entitled to accidental death benefits.

**CONCLUSION AND ORDER**

Summary decision is appropriate when “there is no genuine issue of fact . . . and [the moving party] is entitled to prevail as a matter of law.” 801 CMR 1.01(7)(h). An issue of fact is “genuine” if the non-moving party possesses a “reasonable expectation” of prevailing on it. *Goudreau v. Nikas*, 98 Mass. App. Ct. 266, 269-70 (2020). An agency adjudicating a motion for summary decision must analyze the record evidence in a light favorable to the non-moving party. *Caitlin v. Bd. of Reg. of Architects*, 414 Mass. 1 (1992).

After a careful review of the documents submitted in this case, I have concluded that Ms. Gibson-Rock is not entitled to prevail in this appeal because it is undisputed that Mr. Rock died in 2017 of metastatic bladder cancer, which was not the natural and proximate result of the coronary artery disease for which he was retired in 2009. She additionally makes no attempt to connect his cancer to any work injury or hazard he suffered while a police detective.

G.L. c. 32, § 9(1) provides an accidental death benefit to beneficiaries in cases in which a retirement board “upon receipt of proper proof, finds that any member in service 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, his duties . . . .” Mr. Rock was not a member in service at the time of his death. Section 9(1) further provides, however, that “[t]he provisions of this section shall apply although such member had previously been retired for accidental disability if the board finds that such death was the natural and proximate result of the injury or hazard on account of which such member was retired.” See also *Cataldo v. Contributory Retirement Appeal Bd.*, 343 Mass. 312, 314 (1961).

The person requesting accidental death benefits, Mrs. Gibson-Rock, has the burden of proving causation. *Robinson v. Contributory Retirement Appeal Bd.*, 20 Mass. App. Ct. 634, 639 (1985). To prove causation, medical evidence is required, as evidence of medical causation is beyond the common knowledge of the magistrate. *Id.* The medical evidence must be competent, reliable, and material to the question raised, it must not be based on mere conjecture, and it must be expressed in terms of probability. *Gravallese v. Cambridge Retirement Bd.*, CR-90-1290 (DALA 1992) (citations omitted).

In the instant case, Mr. Rock retired in 2009 for accidental disability under the Heart Law based on his coronary artery disease. In 2015, Mr. Rock was diagnosed with bladder and prostate cancer. He had aggressive chemotherapy and radiation and a surgical resection. Unfortunately, Mr. Rock’s cancer progressed and killed him on December 28, 2017.

Before Mr. Rock had surgery, a cardiac stress test and evaluation revealed he was in good cardiac health. Even up until a couple weeks before he died, his coronary artery disease was stable. It should come as no surprise then that the death certificate, until it was amended, listed only one cause of death: Mr. Rock’s cancer. Dr. Reardon, the only doctor who examined the medical records in connection with the application for death

benefits, opined that Mr. Rock's death from metastatic bladder cancer was not the natural and proximate result of the coronary artery disease for which Mr. Rock was retired from the Boston Police Department. There is no other medical opinion in evidence.

The amended death certificate listed coronary artery disease as a contributing condition but also stated that it was not related to the cause of death. Mr. Rock's last hospitalization was for sepsis from a urinary tract infection. The medical records for that hospital stay state that he had coronary artery disease, that it was stable and was being managed with medical therapy, and that it did not preclude him from undergoing any medical treatment or procedure for his bladder cancer.

Considering all of this evidence, I must conclude that Mr. Rock's cancer was not the natural and proximate result of his coronary artery disease.

It is similarly beyond reasonable dispute that Mr. Rock's cancer was not connected to any job-related injury or hazard. *See Namay v. Contributory Retirement Appeal Bd.*, 19 Mass. App. Ct. 456 (1985) (if the cause of death is related to the same personal injury or hazard that was the cause of the member's disability, then accidental death benefits are warranted); *Burke v. Contributory Retirement Appeal Bd.*, 34 Mass. App. Ct. 212 (1993). (disability and later death must result from same personal injury or hazard). Of course, it is difficult to say what caused Mr. Rock's coronary artery disease because under the Heart Law it was presumed that it was his work. This turns out to be of little importance, however, because there is no evidence of any connection between Mr. Rock's cancer and his work, and police officers do not have the benefit of the Cancer Law's presumption of causation. *See G.L. c. 32, § 94B* (largely applies only to fire fighters).

For the above stated reasons, Ms. Gibson-Rock is not entitled to accidental death benefits. The Board's motion for summary decision is allowed and its decision is hereby affirmed.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

*/s/ Kenneth J. Forton*

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Kenneth J. Forton

Dated: Jan. 12, 2024