

**COMMONWEALTH OF MASSACHUSETTS  
CONTRIBUTORY RETIREMENT APPEAL BOARD**

---

**BECKY GRIFFIN,**

**Petitioner-Appellee**

**v.**

**STATE BOARD OF RETIREMENT,**

**Respondent-Appellant.**

**CR-20-0207<sup>1</sup>**

---

**DECISION**

---

Respondent State Board of Retirement (SBR) appeals from a decision of an Administrative Magistrate of the Division of Administrative Law Appeals (DALA) reversing SBR's decision denying Petitioner Becky Griffin's application for accidental disability retirement. The magistrate held a hearing on May 26, 2021 and admitted thirty-two exhibits. A subsequent hearing was held on September 8, 2021 to take evidence regarding the timeliness of Ms. Griffin's appeal. The DALA decision is dated October 8, 2021. SBR filed a timely appeal to us.

After considering the evidence in the record and the arguments presented by the parties, we adopt the magistrate's findings of fact 1 – 91 as our own and incorporate the DALA decision by reference. For the reasons explained in the Discussion, we affirm, adding the following comments.

Ms. Griffin began her employment with the Department of Disabilities Services (DDS) in 2006 as a Service Coordinator and was later promoted to the position of Service Coordinator Supervisor in 2012. She resigned in 2018 and applied for accidental disability retirement on October 5, 2018. Her application is based on the theory that her disability stems from a series of

---

<sup>1</sup> There is a companion decision that is being issued contemporaneously with this decision, *Becky Griffin v. State Bd. of Retirement*, CR-20-0390 (CRAB Jan. 2024).

abusive acts undertaken by Ms. LaPlante, her supervisor, while she was within the performance of her duties.

The magistrate correctly determined that Ms. Griffin made a prima facie case to be evaluated by a medical panel in connection with her application for accidental disability retirement. 840 C.M.R. § 10.09(2). Ms. Griffin's application and the evidence in the record described a series of actions by her supervisor that Ms. Griffin claimed were retaliatory and were taken for the purpose of causing her harm. Ms. Griffin also alleged that those actions caused her disability and provided supporting statements from her treating physicians. She presented sufficient evidence that, if un rebutted and believed, would allow the Board to conclude that she was entitled to accidental disability retirement. *Lowell v. Worcester Regional Retirement Bd.*, CR-06-296 (DALA Dec. 2009). Accordingly, Ms. Griffin has established a prima facie case for an evaluation by a medical panel.

The magistrate also correctly determined that it was not necessary to have Ms. Griffin be examined by another medical panel for her application for accidental disability retirement. While the medical panel who examined her in connection with an application for ordinary disability retirement benefits, the medical panel utilized the standard for accidental disability retirement. We agree with the magistrate that because the medical panel provided its opinion with respect to causation, the record contained the requisite information for a determination of Ms. Griffin's application for accidental disability retirement.

With respect to the work-related injuries claimed by Ms. Griffin in her application for accidental disability retirement, only events or incidences that occurred within the two year period prior to her application<sup>2</sup> – that is, between October 5, 2016 and October 5, 2018 – can be considered. Incidences that occurred prior to this two year period can only be considered if Ms. Griffin filed notices of injury to her employer within 90 days of their occurrences.<sup>3</sup> Here, no such notices of injury were file with her employer. Further, the receipt of workers' compensation benefits can serve as an exception to this two year limitation.<sup>4</sup> While she filed for workers' compensation benefits, Ms. Griffin's application was denied and she did not receive benefits. Therefore, this exception does not apply. Accordingly, Ms. Griffin's claim for

---

<sup>2</sup> G.L. c. 32, § 7.

<sup>3</sup> *Id.*

<sup>4</sup> G.L. c. 32, §§ 7 and 1.

accidental disability retirement is limited to the two year period prior to the date of her application.

As we noted above, Ms. Griffin's application is based on the theory that her disability stems from a series of abusive acts taken by Ms. LaPlante while she was within the performance of her duties. It has long been recognized that an emotional or mental disability arising from work-related incidences is a personal injury under the retirement laws. *Fender v. Contributory Retirement Appeal Bd.*, 72 Mass. App. Ct. 755, 762, 894 N.E. 2d 295 (2008). Further, events or incidences occurring within the two year period that aggravate a pre-existing condition to the point of disability satisfies the natural proximate cause requirement and would entitle Ms. Griffin to accidental disability retirement. *Baruffaldi v. Contributory Retirement Appeal Bd.*, 337 Mass. 495, 150 N.E.2d 269, 271 (1958).

The magistrate correctly determined that Ms. Griffin met her burden to establish a causal connection between her injuries and the disability she sustained. We incorporate the magistrate's discussion at pages 30 – 33. While Ms. Griffin has established the causal connection between her injuries and her disability, additional consideration is warranted as to whether the actions of Ms. LaPlante fall within the bona fide personnel action exception. This is because a disability that arises from a supervisor's bona fide personnel action cannot be considered a personal injury unless the employer intended to inflict emotional harm. G.L. c. 152, § 1.

Generally, workplace conflicts and harassment do not qualify as a "personal injury" for purposes of the retirement law because they are not sufficiently rare to qualify as "an identifiable condition...not common and necessary to all or a great many occupations."<sup>5</sup> The acts Ms. Griffin complained of and noted by the magistrate in the DALA decision - "autocratic and blunt supervision, decisions permitting or denying paid time off, instructions regarding employee performance reviews, distribution of work assignments, and assignments of work space and materials" – appear to be functions undertaken by management and do not support a claim for a personal injury. However, those actions can be if they were intended to inflict emotional harm. The magistrate correctly determined that Ms. LaPlante's actions amounted to just that. We incorporate the magistrate's reasoning for this conclusion at pages 37 – 38.

---

<sup>5</sup> *Blanchette v. Contributory Retirement Appeal Bd.*, 20 Mass. App. Ct. 479, 485, 481 (1985) (citations omitted); *Sugrue v. Contributory Retirement Appeal Bd.*, 45 Mass. App. Ct. 1, 6 (1998).

The magistrate determined that Ms. Griffin met her burden of proof to establish that Ms. LaPlante engaged in actions to cause her to fail at her job and to cause a deterioration in her condition to the point of disability. We agree with the magistrate that those actions could not constitute bona fide personnel actions. We also agree that Ms. LaPlante's actions amounted to intentional infliction of emotional harm. Regardless of the motive behind Ms. LaPlante's actions, the mistreatment and abuse she bestowed upon Ms. Griffin can only be characterized as "extreme and outrageous" behavior that is "beyond all possible bounds of decency." *Agis v. Howard Johnson Company* 371 Mass 140, 144-145, 355 N.E. 2d 315, 318-319 (1976). This is supported by the evidence in the record, and in particular, the testimonies presented. The magistrate found those testimonies compelling in rendering this decision. When considering this appeal, we give the DALA magistrate's findings of facts "some deference." *Vinal v. Contributory Retirement Appeal Bd.*, 13 Mass. App. Ct., 85, 99-100 (1982). The magistrate's findings based on determinations of credibility are entitled to "particular deference." *Id.* at 100.


**Conclusion.** The DALA decision is affirmed. Ms. Griffin met her burden to establish entitlement to accidental disability retirement benefits pursuant to G.L. c. 32, § 7.

SO ORDERED.

CONTRIBUTORY RETIREMENT APPEAL BOARD



Uyen M. Tran  
Assistant Attorney General  
Chair  
Attorney General's Appointee



Nicolle M. Allen, Esq.  
Governor's Appointee



Fariyda Mulrain, RN, BSN, FNP  
Commissioner of Department of Public Health Appointee

Date: January 24, 2024