

**COMMONWEALTH OF MASSACHUSETTS  
CONTRIBUTORY RETIREMENT APPEAL BOARD**

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**CAITLIN HAMM,**

**Petitioner-Appellant**

**v.**

**STATE BOARD OF RETIREMENT,**

**Respondent-Appellee.**

**CR-17-886**

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**DECISION**

Petitioner Caitlin Hamm appeals from a decision of an administrative magistrate of the Division of Administrative Law Appeals (DALA) affirming the State Board of Retirement's (SBR) denial of her application for accidental disability retirement benefits. In so doing, the magistrate held a hearing on March 26, 2019 and admitted sixteen exhibits. The DALA decision is dated October 25, 2019. Ms. Hamm 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 – 59 as our own and incorporate the DALA decision by reference. For the reasons stated in the Conclusion, we affirm and add the following comments.

An applicant seeking accidental disability retirement benefits must be examined by an independent medical panel. G.L. c. 32, § 6(3)(a); *Kelley v. Contributory Ret. App. Bd.*, 341 Mass. 611, 613 (1961). *See also Malden Ret. Bd v. Contributory Ret. App. Bd.*, 1 Mass. App. Ct. 420, 423 (1973) (panel opines on medical questions “beyond the common knowledge and experience of [a] local retirement board”). A condition precedent to granting accidental disability benefits is the panel's issuance of an affirmative certification on questions of incapacity, permanence, and

causation.<sup>1</sup> *Kelley*, 341 Mass. at 613. Because the majority medical panel concluded that the claimed injury of August 27, 2013 was not the natural and proximate cause of her disability, Ms. Hamm must demonstrate that the medical panel employed an erroneous standard or failed to follow proper procedure in order to be entitled to accidental disability retirement benefits. *Id.*

In urging us to reverse the magistrate's decision, Ms. Hamm contends that Drs. Ritter and Warnock provided unqualified negative responses to the question of causation as provided for in *Noone v. Contributory Retirement Appeal Bd.*, 34 Mass. App. Ct. 756 (1993). She argued that the majority panel doctors provided negative, conclusory responses to the question of causation without providing an explanation as to the cause of her disability. She further asserts that their responses to clarification questions were not instructive on this issue. Consequently, she maintains that the medical panel employed an erroneous standard, and therefore, she was deprived of a proper medical panel.

Although Ms. Hamm asserted that the majority medical panel used the wrong legal standard in evaluating the relationship between the August 2013 injury and her work, the physicians answered statutory questions as required, explained the reasons for their answers in supporting narratives that corresponded to questions on the certificate form, and considered the possibilities of causation. Here, the medical panel answered no to the question of whether the incapacity was the natural and proximate cause of the personal injury sustained on account from which retirement was claimed. In answering this question, the panel noted that it reviewed the medical records provided and the job description, recorded Ms. Hamm's extensive history, and examined Ms. Hamm. The panel concluded that Ms. Hamm was disabled, but that her disability was unrelated to her work-related injury of August 27, 2013. Instead, the panel deemed that her disability was from residual weakness in her right hand status post ulnar nerve transposition for right cubital tunnel syndrome. When it was asked to reconsider its opinion that Ms. Hamm did not sustain an injury of the right elbow in the August 27, 2013 work injury that lead to the diagnosis of right cubital tunnel syndrome, the panel reported that "there was no evidence in the

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<sup>1</sup> The panel addresses three questions: (1) whether the applicant is mentally or physically incapacitated for further employment duties; (2) whether such incapacity is likely to be permanent; and (3) "whether or not the disability is such as might be the natural and proximate result of the accident or hazard undergone on account of which [an accidental disability] retirement is claimed." G.L. c. 32, § 6(3).

record to suggest right elbow fracture, dislocation, contusion, abrasion, or strain/sprain as a result of the 08/27/2013 incident.” It further expressed that Ms. Hamm did not experience any right arm symptoms and finger numbness until late October 2013, almost two months following the claimed injury. Further, a November 21, 2013 EMG report showed mild right cubital tunnel syndrome. The medical panel, again, concluded that “[t]here was no reasonable medical rationale for the right elbow cubital tunnel syndrome as related to the 08/27/2013 incident.” It found that the “diagnosis of right cubital tunnel syndrome and the right ulnar nerve transposition on 12/09/14 were not causally related to the 08/27/13 incident.”

Based on the above, we find no evidence that the medical panel lacked any pertinent facts in rendering its opinion in the certification report, nor any evidence that the medical panel employed an erroneous standard. Unlike in *Noone*, the materials forwarded by the panel reflect that it considered the relationship between the nature of the disability and the member's job and explained the panel's determination that there was no possibility of a connection between Ms. Hamm's condition and her work. As reflected above, both doctors properly considered the role the August 2013 incident may have played in her disability.

The magistrate determined that Ms. Hamm failed to meet her burden of proof because the doctors had found that the August 2013 incident did not cause her condition. Upon review, we agree with the magistrate that the facts reflect there was not a medical possibility of a causal relationship between Ms. Hamm's disability and the August 2013 incident while in the performance of her duties. Accordingly, Ms. Hamm did not carry her burden before CRAB of proving that she is entitled to an accidental disability retirement. The DALA decision is affirmed. *Affirm.*

SO ORDERED.

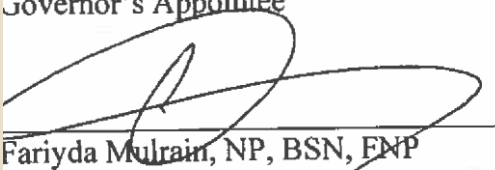
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Date: July 3, 2024