

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

**Kelley Morais, Jane Coderre,
and City of New Bedford,**
Petitioners

v.

Docket Nos. CR-24-0109; CR-24-0161;
CR-22-0400

Date issued: Jan. 24, 2025

New Bedford Retirement Board,
Respondent

Appearance for Kelley Morais:

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Appearance for Jane Coderre:

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Appearance for City of New Bedford:

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Appearance for New Bedford Retirement Board:

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Administrative Magistrate:

Kenneth J. Forton

SUMMARY OF DECISION

While his application for accidental disability retirement was pending, Petitioner fire fighter attempted to retire for superannuation in order to avoid being terminated for moral turpitude and possibly forfeiting his right to his retirement allowance. The employer town rejected Petitioner's resignation, held a termination hearing, and terminated Petitioner essentially for faking his injuries. Petitioner appealed his dismissal to the Civil Service Commission (CSC). Meanwhile, the retirement board approved Petitioner's superannuation application with a minor adjustment. The employer city appealed the board's retirement decision. The CSC reversed the termination and "reinstated" Petitioner, who died soon afterward. Petitioner's ex-wife and current wife submitted competing claims for retirement benefits, the retirement board refused to decide between them, and they both appealed.

I conclude that the CSC's decision did not return Petitioner to active duty; rather, he remained retired and merely did not have to suffer the consequences of his termination. Petitioner's ex-wife is entitled to Option C retirement benefits because he was retired when he died. Petitioner's current wife is not entitled to Option D benefits because those benefits are available only when the member is not retired yet.

DECISION

This decision covers three appeals from two different, but related, decisions of the New Bedford Retirement Board. The first decision was about Paul Coderre's resignation, the effective date of his retirement, and whether he should have forfeited his retirement allowance because his employer, the City of New Bedford, attempted to terminate him for reasons of moral turpitude. This appeal was assigned DALA Docket No. CR-22-0400. On November 27, 2023, the City of New Bedford, Mr. Coderre, and the Board filed a joint pre-hearing memorandum in Docket No. CR-22-0400, along with proposed Exhibits 1-8. DALA scheduled a hearing for July 18, 2024.

In the midst of this first appeal, Mr. Coderre appealed his termination to the Civil Service Commission (CSC). On November 30, 2023, the CSC vacated Mr. Coderre's termination and reinstated him to his position "without loss of compensation or other

benefits.” The City has appealed the CSC decision to Superior Court, and it remains under consideration by the Court.¹

The second Board decision was triggered by Mr. Coderre’s death on December 29, 2023. His ex-wife, Kelley Morais, claimed that when he died Mr. Coderre was retired under Option C and she was his Option C beneficiary. Mr. Coderre’s then-current wife, Jane Coderre, claimed that the CSC reinstatement meant that Mr. Coderre was restored to his position and was therefore still employed by New Bedford when he died, meaning that she is entitled to survivor benefits under Option D. The Board refused to choose between the wife’s and the ex-wife’s claims, thus forcing them to appeal its refusal to act to DALA, which they did. Their appeals were assigned DALA Docket Nos. CR-24-109 and CR-24-0161.

On May 23, 2024, Kelley Morais moved to intervene in Docket No. CR-22-0400. The motion was allowed on May 31, 2024. On June 1, 2024, Kelley Morais additionally moved to consolidate all three docket numbers, cancel the scheduled July 18, 2024 hearing, and have all of the matters decided on written submissions under 801 CMR 1.01(10)(c). All parties to all three appeals assented to the request. On June 5, 2024, I allowed the motion, canceled the hearing, and ordered the parties to file any additional papers no later than September 6, 2024.

¹ In making my findings of fact, I draw on the CSC’s decision overturning Mr. Coderre’s termination. The Administrative Procedures Act makes admissible the “kind of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs.” G.L. c. 30A, § 11(2). All of the salient witnesses testified at the CSC hearing and were subject to cross-examination. The decision is the sort of information that a serious person would find sufficiently reliable when considering a serious matter.

Kelley Morais filed a memorandum and two additional proposed exhibits (Exhibits 9, 10) on July 23, 2024. Jane Coderre filed a memorandum on September 6, 2024. (Ms. Coderre also filed 5 exhibits, but I have not entered them into evidence because they are duplicative of exhibits offered by the other parties.) The City of New Bedford filed a memorandum on September 5, 2024. The Board filed its memorandum on September 6, 2024, along with proposed Exhibits 11-18.

I hereby enter Exhibits 1-18 into evidence.

FINDINGS OF FACT

Based on the parties' stipulations and the exhibits in evidence, I make the following findings of fact:

1. Paul Coderre, born January 5, 1968, began his career with the New Bedford Fire Department in February of 1993. (Ex. 2.)
2. Mr. Coderre and his first wife, Kelley Morais, married in 1991. (Stipulation.)
3. In 2011, Mr. Coderre began serving as New Bedford's Deputy Fire Chief. (Exs. 7, 8.)
4. On January 8, 2016, Mr. Coderre and Ms. Morais separated. (Ex. 9.)
5. On April 16, 2016, Mr. Coderre was in a motor vehicle accident while he was responding to a fire. (Ex. 2.)
6. On August 29, 2016, Mr. Coderre and Ms. Morais executed a proposed Divorce Relations Order (DRO). The DRO provided that at the time of his retirement, Mr. Coderre would elect to receive his benefits under Option C and would designate Ms.

Morais as the Option C beneficiary.² The Court approved the DRO on January 20, 2017. (Ex. 9.)

7. On December 1, 2016, Mr. Coderre underwent his first back surgery to address persistent pain and injuries from the April 16, 2016 accident. (Ex. 2.)

8. Beginning on December 8, 2016, at the request of the then fire chief, Mr. Coderre began to report for work three to four hours a day, two or three days a week. Mr. Coderre was tasked with attending to administrative matters, while pursuing outpatient chiropractic and physical therapy. (CSC Decision, Finding of Fact No. 19.)

9. In February 2017, Mr. Coderre returned to full duty and worked without incident for the next couple of years. (CSC Decision, Finding of Fact No. 19.)

10. In December 2018, Mr. Coderre began serving as provisional fire chief. (Exs. 7, 8.)

11. On April 3, 2019, while still serving as provisional fire chief, Mr. Coderre injured his back again while he was dragging a hose line at a fire. Three weeks later, he felt pain in his back again while advancing a fire hose at another fire. (Exs. 1, 2.)

12. Between June 5, 2019, and August 3, 2019, Mr. Coderre sought chiropractic treatment at Bergeron Chiropractic Neurology P.C. for his low back pain. (Ex. 2.)

13. On October 23, 2019, Mr. Coderre had an MRI scan of his lumbosacral spine. The scan showed evidence of lumbar spondylosis at L4-5. (Ex. 2.)

14. On January 13, 2020, Mr. Coderre was evaluated by Dr. Marcovici at DHA Neurology. Mr. Coderre presented to Dr. Marcovici with low back pain and left

² Additional contingencies in the DRO do not apply here.

leg pain. Dr. Marcovici advised a second MRI, which Mr. Coderre underwent on January 24, 2020. (Ex. 2.)

15. From February 7, 2020 to March 16, 2020, Mr. Coderre underwent further rehabilitation at Southcoast Health. (Ex. 2.)

16. On August 4, 2020, Mr. Coderre was admitted to the hospital to undergo a second back surgery, which was performed on August 6, 2020. August 4, 2020 was his last date of active service. (Ex. 2.)

17. In August 2020, Mr. Coderre began receiving injured-on-duty benefits under G.L. c. 41, § 111F. He continued to receive these benefits until January 25, 2022. (Stipulation.)

18. Following Mr. Coderre's second back surgery, he was referred by his primary care provider, Dr. Amy Wiegant, to have x-rays taken of his right hip. The images were positive for osteoarthritis. Dr. Wiegant then referred him to Dr. Paul Dimond for an orthopedic evaluation. Dr. Dimond reviewed the images and advised Mr. Coderre to undergo a total right hip replacement. (Ex. 2.)

19. On December 2, 2020, another MRI confirmed that Mr. Coderre's back pain was attributable to degenerative endplate changes at L4-L5. He was referred to a neurologist by Dr. Wiegant. (CSC Decision, Findings of Fact No. 22 & 25.)

20. On January 11, 2021, Mr. Coderre underwent total right hip replacement, followed by several months of physical therapy. Dr. Dimond referred Mr. Coderre to Dr. Paul Houle, for a second opinion regarding his back pain. (Ex. 2.)

21. In March 2021, Mr. Coderre was seen by his neurosurgeon's physician assistant Jennifer Cook. PA Cook noted that Mr. Coderre presented with "admitted

weakness in his lower extremities” and “a possible left foot drop.” (CSC Decision, Findings of Fact No. 25 & 26.)

22. In March 2021, New Bedford Mayor Jonathan F. Mitchell saw some of Mr. Coderre’s Facebook postings from 2020 and suggested that Mr. Coderre’s injury was not as severe as he claimed. (CSC Decision, Finding of Fact No. 36.)

23. On March 19, 2021, at the request of Mayor Mitchell, Human Resources Director Judith Keating met with Mr. Coderre regarding the “bad optics” of his Facebook posts made in 2020. (CSC Decision, Finding of Fact No. 37.)

24. After meeting with Mr. Coderre, Keating recommended that a private investigator be hired to conduct surveillance. Keating and Mayor Mitchell arranged for the City Solicitor to assume oversight of Mr. Coderre’s injury claim. (CSC Decision, Finding of Fact No. 39.)

25. On April 13, 2021, Dr. Dimond noted that Mr. Coderre was doing well but still had persistent low back pain. Dr. Dimond recommended that Mr. Coderre stay out of work. (Ex. 2.)

26. On May 13, 2021, Dr. Houle referred Mr. Coderre for EMG testing, which showed evidence of some chronic left L5 radiculopathy. Dr. Houle recommended an additional procedure to Mr. Coderre to address his ongoing complaints of back pain. (Exs. 1, 2.)

27. On May 24, 2021, Mr. Coderre had a follow-up visit with his neurosurgeon, Dr. Houle. He explained that he believed Mr. Coderre’s back pain was probably due to nerve damage and recommended another surgery. Dr. Houle further

explained that pending surgery, Mr. Coderre was not fit to return to work. (CSC Decision, Finding of Fact No. 27.)

28. On June 15, 2021, surveillance was conducted at Jane's home from 6:00 a.m. to 4:00 p.m. Mr. Coderre was seen going to a Lowe's Hardware Store where, with the assistance of an employee, he lifted a box containing a 176 lb. smoker into the bed of a truck. Upon returning to his girlfriend's home, Mr. Coderre removed the box with difficulty, put it on a hand truck and pulled it backwards out of sight. (Exs. 1, 2.)

29. On June 22, 2021, surveillance was conducted at Mr. Coderre's girlfriend's home from 6:00 a.m. to 4:00 p.m. Mr. Coderre was seen picking up a black plastic trash bag which was partially filled with unknown contents and carrying it through a fence gate. (Exs. 1, 2.)

30. On July 20, 2021, in a medical note, the physician who performed Mr. Coderre's hip replacement reported that he had multiple hard falls since the physician had last seen Mr. Coderre in April 2021. (Ex. 5.)

31. On August 30, 2021, surveillance was conducted at Mr. Coderre's girlfriend's home from 6:30 a.m. to 3:30 p.m. Mr. Coderre was observed unloading the following items from his vehicle: a partially filled trash bag, two gasoline jugs, a propane tank, three coolers, a laundry basket, hand tools, several plastic sheets, a water bottle, a metal carrying case, and a canvas handbag. (Exs. 1, 2.)

32. Sometime after August 30, 2021, the City received the surveillance report, which included the three surveillance videos from June 15, 2021, June 22, 2021, and August 30, 2021. (Ex. 5.)

33. On September 1, 2021, the Fire Department ordered Mr. Coderre to appear before Dr. George McManama for an independent medical examination. (Ex. 1.)

34. On September 21, 2021, Mr. Coderre was examined by Dr. McManama. He initially agreed with Mr. Coderre's treating physicians' medical opinions and believed he was not faking his injuries or disability. After Dr. McManama issued his report, the City sent him copies of the surveillance videos. On October 14, 2021, Dr. McManama issued an addendum to his IME report, stating: "Mr. Coderre had greater physical abilities than he admitted at the time of the IME Mr. Coderre had resolved his low back pain . . . back to baseline status . . . [and was] able to resume his regular duties." (Exs. 1, 2.)

35. On October 4, 2021, Dr. Houle performed a third back surgery on Mr. Coderre. (Ex. 1.)

36. On October 20, 2021, Mr. Coderre attended a post-operative follow-up with Dr. Houle's physician assistant, Jennifer Miller. No signs of improvement were noted by her, but she did add that Mr. Coderre mentioned he was starting the process of disability retirement. (Ex. 5.)

37. On December 1, 2021, Mr. Coderre filed for accidental disability retirement with the New Bedford Retirement Board. (Exs. 7, 8.)

38. On December 3, 2021, Mr. Coderre had a second post-operative follow-up visit with Dr. Houle, who noted Mr. Coderre still reported sharp back pain when he tried to carry anything heavy. (Ex. 5.)

39. On December 5, 2021, Mr. Coderre married Jane Coderre. (Stipulation.)

40. On December 13, 2021, the City received notice from the Board that Mr. Coderre had applied for accidental disability retirement. (Ex. 1.)

41. On December 21, 2021, Dr. McManama executed an affidavit in which he stated that:

Mr. Coderre was putting on an act during his September 21, 2021 examination . . . [and] after reviewing the video surveillance footage of Mr. Coderre . . . I believe that Mr. Coderre's statements and actions during his September 21, 2021 examination, with respect to his level of disability, were not truthful.

(Ex. 2.)

42. On January 6, 2022, Mayor Mitchell informed Mr. Coderre that he was contemplating terminating him. He also informed Mr. Coderre that he would hold a termination hearing based on independent medical records and Dr. McManama's affidavit. (Ex. 1.)

43. On January 10, 2022, Mr. Coderre filed for superannuation retirement with an effective date of January 10, 2022. Mr. Coderre filled out a Choice of Retirement Option Form. Pursuant to the DRO, Mr. Coderre designated his ex-wife Kelley Morais as his Option C beneficiary. The form was signed by Mr. Coderre and acknowledged by his then-current wife Jane Coderre. (Exs. 3, 10.)

44. On January 12, 2022, Mr. Coderre's then-attorney, James H. Quirk Jr., sent a letter to the Board advising it of Mr. Coderre's legal representation, and asking that the Board inform the City's Human Resource Department of Mr. Coderre's retirement. (Ex. 4.)

45. Also on January 12, 2022, Mr. Quirk sent a letter to Mayor Mitchell, informing him that Mr. Coderre filed for superannuation retirement on January 10, 2022, and was therefore no longer an "active employee," and that "there appears to be no

continuing reason . . . to hold a termination hearing.” Mr. Quirk added that, if the City were to proceed with the hearing, Mr. Coderre “be provided sufficient notice to prepare for any such proceeding.” (Ex. 4.)

46. On January 13, 2022, the City, through a Hearing Officer designated by Mayor Mitchell, held a termination hearing via Zoom. The Hearing Officer called no witnesses, and relied on Dr. McManama’s IME report, addendum, and affidavit. Neither Mr. Coderre nor Mr. Quirk were present. (Ex. 5.)

47. On January 18, 2022, the Hearing Officer accepted documentary evidence, mainly reports from Mr. Coderre’s treating physicians, provided by Mr. Coderre’s legal counsel. The Hearing Officer also rejected Mr. Coderre’s contention that his January 10, 2022 retirement mooted the termination proceeding. (Ex. 5.)

48. On January 19, 2022, the Hearing Officer issued a report concluding that “the alleged injury on April 3, 2019, was not the cause of any disability,” Mr. Coderre gave a false statement during his medical examination and had consequently misappropriated over \$208,000 in § 111F benefits, and he had violated several provisions of the Code of Conduct for Firefighters. The Hearing Officer issued the recommended decision to Mayor Mitchell, who subsequently approved it. (Exs. 5, 7.)

49. On January 25, 2022, Mayor Mitchell notified Mr. Coderre of his termination effective that day “for all the reasons set forth [in Mayor Mitchell’s] January 6, 2022 notice and the reasons set forth in the Hearing Officer recommendation.” (Ex. 6.)

50. On January 27, 2022, the Board voted to retire Mr. Coderre for superannuation, effective January 10, 2022. (Ex. 8.)

51. On January 30, 2022, Mr. Coderre appealed his termination to the Civil Service Commission. (Ex. 8.)

52. On February 4, 2022, the Board notified the City of its January 27, 2022, approval of Mr. Coderre's January 10, 2022 retirement application. (Ex. 11.)

53. On February 10, 2022, The City filed a motion to reconsider the Board's decision to retire Mr. Coderre, in which it alleged that "(1) Coderre's January 10, 2022 application to retire was invalid, unlawful and of no effect . . . [and therefore the] Board [had] no power to grant the retirement (2) Coderre was discharged for reasons of moral turpitude . . . [and] (3) the Retirement Board should institute a charge of misappropriation of funds [against Mr. Coderre.]" (Exs. 8, 11.)

54. A Civil Service pre-hearing conference was scheduled for February 22, 2022, but it was deferred because the Commission wanted to wait for the Board to rule on the City's motion for reconsideration. (CSC Decision, at *2.)

55. On March 22, 2022, the Board voted to change the effective date of Mr. Coderre's superannuation retirement from January 10, 2022 to January 25, 2022, as Mr. Coderre had remained on the City's payroll until January 25, 2022. (Exs. 8, 12.)

56. On April 1, 2022, Mr. Coderre joined the City in a challenge to the Board's authority to change the effective date of his retirement. (Exs. 8, 14.)

57. On April 7, 2022, the Board deferred ruling on the effective retirement date until a decision was made whether Mr. Coderre was terminated for moral turpitude. (Exs. 8, 15.)

58. On June 2, 2022, the Board held a hearing on the City's motion for reconsideration. (Exs. 8, 12.)

59. On September 8, 2022, the Board issued its decision, ruling that: (1) Mr. Coderre’s application for superannuation retirement “was not an effective resignation,” (2) “even if the City was aware of [Mr. Coderre’s] intent to retire on January 10, 2022, and his intent to retire was construed as his attempt to resign his position, the City did not accept [Mr. Coderre’s] resignation and thus it was ineffective,” (3) “the City terminated [Mr. Coderre] on January 25, 2022, and thus his superannuation retirement became effective that day,” and (4) there was insufficient evidence to find that Mr. Coderre was terminated for moral turpitude. (Ex. 8.)

60. On September 20, 2022, the City of New Bedford and Mr. Coderre filed appeals of the Board’s decision. Their appeals were assigned one DALA Docket No. CR-22-0400.

61. On November 30, 2023, the CSC vacated the City’s termination of Mr. Coderre. It concluded that Mr. Coderre did not engage in substantial misconduct, did not submit false injury reports, did not abuse the fire department’s injured leave policy, and did not lie about, or misrepresent the nature of, his disability. (CSC Decision.)

62. The Commission noted:

Although the Appellant has retired and may not now be likely to return to duty, his unlawful termination in violation of his civil service rights also affects his entitlement to other post-retirement compensation that he was denied as a consequence of the illegal termination.

(CSC Decision, p. 1.)

63. The Commission ruled:

The Appellant’s termination is vacated and, pursuant to G.L. c. 32, § 43, he shall be reinstated to his position without loss of compensation or other benefits, subject to compliance with such requirements of law governing his reinstatement as are consistent with this Decision.

(CSC Decision, p. 27.)

64. On December 28, 2023, the City appealed the CSC’s decision to Superior Court. *See City of New Bedford v. Civil Service Comm’n*, Superior Court Docket # 2373CV00860. The appeal remains pending.

65. The next day, on December 29, 2023, Mr. Coderre died. (Exs. 16, 17.)

66. Shortly afterward, Jane Coderre sent a letter to the Board, claiming that, as Mr. Coderre’s surviving spouse, and as a result of the Commission’s Decision reinstating Mr. Coderre to his position, Mr. Coderre died as a member in service, and therefore Jane was electing to pursue surviving spouse benefits under G.L. c. 32, § 12(2)(d). (Ex. 17.)

67. Kelley Morais also submitted a claim, but as Mr. Coderre’s Option C beneficiary, based on the theory that Mr. Coderre was properly retired as of either January 10, 2022 or January 25, 2022, and therefore no surviving spouse benefits are available to Jane Coderre. Her claim was consistent with the DRO. (Ex. 18.)

68. On January 29, 2024, the Bristol County Probate Court appointed Jane Coderre as Mr. Coderre’s personal representative. (Ex. 16.)

69. On February 29, 2024, the Board held a meeting and decided to take no action on either Jane Coderre’s application for Option D survivor benefits or Kelley Morais’s application for Option C benefits. (Ex. 18.)

70. On March 1, 2024, the Board notified both women of its decision not to act on either application and informed them that they could file an appeal with the Division of Administrative Appeals. (Ex. 18.)

71. Kelley Morais appealed on March 9, 2024; her appeal was assigned DALA Docket No. CR-24-0109. Jane Coderre appealed on March 15, 2024; her appeal was assigned DALA Docket No. CR-24-0161.

CONCLUSION AND ORDER

These consolidated appeals call upon me to make several legal conclusions, the outcomes of which will determine whether Mr. Coderre was retired when he died. If he was, then his ex-wife, Kelley Morais, will be entitled to his Option C retirement benefit. *See* G.L. c. 32, § 12(2)(c). If he was not, then his wife, Jane Coderre, will be entitled to survivor benefits under Option D. *See id.*, § 12(2)(d).

When he applied to retire from firefighting, Mr. Coderre was 54 years old. This meant that he could not retire under G.L. c. 32, § 5(1) because that section requires a Group 4 applicant like Mr. Coderre to be 55 years old. *See* G.L. c. 32, § 3(2)(g) (municipal fire fighters designated Group 4). However, because he had more than 20 years of creditable service, he was qualified to retire under G.L. c. 32, § 10(1), which requires only 20 years of service and has no age requirement. Section 10(1) also requires that Mr. Coderre either resign or be discharged from his position “without moral turpitude on his part” (or other inapplicable circumstances).

The dispute in the first appeal filed was over whether Mr. Coderre resigned or was terminated. That dispute has now been obviated by the Civil Service Commission’s November 30, 2023 decision vacating Mr. Coderre’s termination and reinstating him to his position without loss of compensation or other benefits.

The first question to be resolved is whether, in light of the Civil Service Commission’s decision, Mr. Coderre is considered returned to active service or whether,

on the other hand, he remained retired and the decision really just means that in effect he was not terminated (for moral turpitude or otherwise). Jane Coderre does not make any tangible argument that Mr. Coderre was returned to active duty; she merely equates returning to active duty with the Commission's "reinstatement." The Board and Kelley Morais argue that Mr. Coderre was retired in January 2023 and remained retired until his death.

I conclude that it is not reasonable to read the Commission's reinstatement order as annulling or undermining the retirement board's approval of Mr. Coderre's superannuation application. It is more reasonable to read the Commission's language as essentially boilerplate paraphrasing of the statutory remedy under G.L. c. 31, § 43 ("returned to his position without loss of compensation or other rights"). The Commission expressly recognized that Mr. Coderre was already retired and might not return to work despite the reinstatement order. The Commission made no attempt to undo the retirement or even suggest that it had the authority to do so. Since Mr. Coderre did not seek to annul his retirement or have himself reinstated to active duty (this would have made little sense, since he was awaiting a decision on his accidental disability retirement application), I conclude that the Commission's decision effectively overturned the City's termination for moral turpitude and restored Mr. Coderre to the state he was in prior to being terminated, that is to say, retired for superannuation.

This means that Mr. Coderre was retired either as of the date that he filed his application—January 10, 2022—or the last date that he was on the payroll receiving § 111F benefits—January 25, 2022. Mr. Coderre submitted a valid application on January 10, 2022 requesting to be retired as of that date. He did not, however, submit his

resignation to the Fire Department. This meant that Mr. Coderre remained on the payroll receiving § 111F benefits until January 25, 2022, when the City discharged him. The Board thus revised the retirement date to January 25, 2022, because a member cannot simultaneously receive retirement benefits while he is still employed. *See Cogan v. Ret. Bd. of Cambridge*, 294 Mass. 577 (1936). There is no compelling reason to disturb the Board's revision of the retirement date to January 25, 2022.

Because Mr. Coderre died nearly two years after he retired, he was entitled to his superannuation retirement allowance from January 25, 2022 to December 29, 2023, his date of death. If any of those benefits are still owed, they shall be paid to Mr. Coderre's estate.

As he was retired when he died, his ex-wife Kelley Morais is now entitled to the Option C benefit that Mr. Coderre chose (and his current wife Jane Coderre acknowledged) when he filed his superannuation application, in accordance with the DRO from their 2016 divorce. *See* G.L. c. 32, § 12(2)(c). Obversely, Jane Coderre is not entitled to Option D benefits because Mr. Coderre was retired more than 30 days when he died, and Option D benefits are paid only if a member "died before being retired." *See* G.L. c. 32, § 12(2)(d).

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

/s/ Kenneth J. Forton

Kenneth J. Forton
Administrative Magistrate

DATED: Jan. 24, 2025