

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Linda F. Murphy,
Petitioner

Docket No. CR-17-519

March 7, 2025

v.

State Board of Retirement,
Respondent

Appearances:

For Petitioner: Linda F. Murphy, *pro se*

For Respondent: Yande Lombe, Esq.

Administrative Magistrate:

Mark L. Silverstein, Esq.

SUMMARY OF DECISION

Accidental Disability Retirement (ADR) - Emotional or psychiatric disability - Personal injury or hazard sustained while in performance of duties at some definite place and time, see M.G.L. c. 32, § 7(1) - Series of specific, stressful work-related incidents - Project supervisor - Insubordination, uncooperativeness and refusal to follow directions by supervised employee - Efficient, and predominant, cause of aggravated depression and PTSD to the point of likely-permanent disability - ADR denial reversed.

In early 2015 the petitioner, a Department of Unemployment Assistance (DUA) employee, was supervising the scanning of agency documents into an electronic database used by both DUA and the Department of Revenue to confirm that the correct amount of income tax was withheld

from unemployment insurance benefits payments. She suffered a disabling aggravation of preexisting depression and PTSD following a series of specific, stressful workplace incidents while she was performing her work duties during a three-month period before she stopped working. During these incidents, another employee was insubordinate and uncooperative, and refused to follow the petitioner's directions to keep food and beverages away from scanned

documents and scanning equipment, and to perform a test scan following an electronic database rebuild before resuming full scanning. The evidence—including petitioner’s medical records, a unanimous affirmative psychiatric medical panel opinion, petitioner’s unrefuted testimony, and interoffice emails regarding the incidents in question that the petitioner exchanged at the time with her own supervisor and an Executive Department of Labor Relations Director—shows that the incidents were the efficient, and predominant, cause of the petitioner’s emotional/psychiatric injury and likely-permanent disability, rather than the result of general wear and tear. As a result, the petitioner was eligible for accidental disability retirement (ADR) based upon a personal injury compensable under M.G.L. c. 32, § 7(1), and she was not required to show that her work exposed her to an unusual or greater risk than that experienced in other trades or professions, although the evidence shows this as well. The denial of petitioner’s ADR application by the State Board of Retirement is therefore reversed.

DECISION

Background

a.

Petitioner Linda F. Murphy began her public employment at the Commonwealth’s Department of Unemployment Assistance (DUA) in April 1991. In 2004 DUA appointed her to the job position of “Program Coordinator III” in the agency’s central document processing unit, which she held until she stopped working in late April or early May 2015. As of January 2015, she was supervising a joint DUA and Massachusetts Department of Revenue project that involved scanning a large volume of DUA’s paper records into an electronic database. Both agencies would use this database to confirm that the correct amount of income tax was withheld from each unemployment insurance benefit payment.

Several DUA employees worked on this interagency project under Ms. Murphy’s direction in a small area at DUA’s central document processing unit in Boston, mostly in and around scanning equipment and paper records. To protect the documents and equipment, Ms. Murphy instructed project staff, in late January 2015, to avoid consuming food and beverages in and around the paper records and scanning equipment. Starting on April 29, 2015, another

project employee, D.L., defied Ms. Murphy's instruction and vocalized her opposition to it as unfair. In February 2015, during a software "build" to address slow scanned data transformation into usable electronic format, Ms. Murphy instructed project staff to perform a limited test scan of documents into the database, before resuming full scanning. D.L. defied this instruction as well, and resumed full document scanning without performing any testing. Through March 2015, D.L. mocked Ms. Murphy, and made derogatory comments about her to other interagency project employees. Starting in late January 2015, Ms. Murphy sent contemporaneous emails about this conduct and its effect upon her own work performance and emotional condition to her own supervisor at the former Department of Workforce Development (DWD) and to DWD's Director of Labor Relations. She continued to exchange emails with them about these matters through early May 2015.

Ms. Murphy had previously worked through depression and post-traumatic stress disorder (PTSD) related to an abusive prior marriage, and she had received excellent performance ratings and promotions from her DUA supervisors. She had also worked through earlier difficulties with D.L. in late November 2013. However, Ms. Murphy was unable to work through D.L.'s insubordination, uncooperativeness and refusal to follow her instructions from January 30, 2015 through March 31, 2015. She suffered an emotional breakdown toward the end of that time period, became unable to perform her work duties, and stopped working in late April or early May 2015.

b.

On May 8, 2015, Ms. Murphy filed an application for accidental disability retirement (ADR) based upon a psychiatric or emotional work-related disability—the aggravation of her

PTSD and depression as the result of a work-related injury or injuries and/or a hazard undergone as a result of D.L.'s workplace conduct that had started in November 2013 and continued until she stopped working in early 2015.¹ A regional medical panel comprising three psychiatrists reviewed Ms. Murphy's medical and employment records and examined her subsequently. On December 2, 2015, the medical panel issued, per M.G.L. c. 32, § 6(3), a unanimous affirmative opinion, that Ms. Murphy was disabled, likely permanently, and that her incapacity was, "such as might be the natural and proximate result of the accident or hazard undergone on account of which" she applied for ADR, together with a report explaining the panel's opinion.

On March 20, 2016, while she was on medical leave and her ADR application was still pending, Ms. Murphy filed an application for superannuation retirement with the Board, since she was unable to return to work and no longer had an income. On May 24, 2016, the Board voted to approve her ordinary retirement application and her request that the effective date of her retirement be April 29, 2016, the day on which her extended leave from work under the federal Family and Medical Leave Act and the collective bargaining agreement covering her employment expired.

On June 29, 2017, the Board voted to approve ordinary disability retirement benefits for Ms. Murphy retroactive to April 29, 2016, and those benefits have been paid to her since. On the same day, the Board also voted to deny Ms. Murphy's ADR application based upon her failure to show that she was disabled "by reason of a personal injury sustained or hazard undergone as a result of, and while in the performance of, [her] duties at some definite place and at some definite time," as M.G.L. c. 32, § 7(1) requires.

¹/ Ms. Murphy also claimed that another employee she supervised at DUA had joined D.L. in harassing and bullying her. However, the record does not show clearly this other employee's role in workplace incidents that occurred in late November 2013 or in early 2015.

c.

Ms. Murphy timely appealed the Board's denial of her ADR application to the Division of Administrative Law Appeals (DALA), pursuant to M.G.L. c. 32, § 16(4). She reiterated her claim that D.L.'s workplace conduct, starting in 2013 and continuing through early 2015, had aggravated her preexisting depression and PTSD to the point of likely-permanent disability. She also claimed that it was difficult for her to submit evidence of a work-related injury because DUA had not taken her complaints about bullying and harassment seriously, and her union had not assisted her in pursuing the matter because her complaints fell into a "gray area." The Board countered that its denial of Ms. Murphy's ADR application should be sustained because (1) she could not prove that the cause of her disability was work-related, since Ms. Murphy had not identified any specific work-related incident or series of work-related events that caused her emotional or psychiatric disability; and (2) she had not shown that her employment at DUA exposed her to an identifiable condition that was not common or necessary to all or a great many occupations.

The Board filed a prehearing memorandum on June 3, 2019, together with 13 proposed exhibits (Exhs. 1-13) that included Ms. Murphy's accidental disability retirement (Exh. 3); the treating physician's statement in support of her ADR application (Exh. 4); the employer's statement regarding the ADR application (Exh. 5); Ms. Murphy's "Form 30" job description (Exh. 6); the medical panel's certificate and report (Exh. 8); Ms. Murphy's medical records (Exh. 9); and her work performance reviews from July 1999 through June 2010. (Exh. 10.)

On May 30, 2019, Ms. Murphy filed a handwritten response to DALA's hearing notice in which she stated that (1) her ADR application was based upon "being harassed, bullied at work causing severe depression, PTSD and fear;" and (2) she had no witnesses other than herself. She

also stated that she was without counsel to assist her and that, as the hearing date drew closer, she was “stressing and feeling scared to be near all those evil people who caused all this.” I treated this as Ms. Murphy’s prehearing memorandum.

Ms. Murphy also filed four proposed hearing exhibits: Exh. A (the medical panel’s certificate and report); Exh. B (the statement of Ms. Murphy’s treating physician, Dr. Daniel Trutt, in support of her family medical leave application based upon “debilitating anxiety and disturbances secondarily and interpersonal problems with a co-worker” that had “triggered PTSD related to previous traumas as well as severe depression”); Exh. C (Ms. Murphy’s ADR application, dated May 8, 2015); and Exh. D (Ms. Murphy’s handwritten addendum to her ADR application providing a “description of incident(s) or hazard” on which the application was based). In this addendum, Ms. Murphy asserted that (1) she had reported the workplace conduct in question to Human Resources, her union and others “several times” but nothing was done; (2) she had received no support from management or from the union to which she belonged in coping with co-employee conduct that caused her to live in fear, and to believe that she was under attack in the workplace; and (3) as a result, she had suffered panic attacks, had become forgetful and unable to concentrate, was barely able to leave her house, and had lost interest in doing anything.

I held a hearing on June 11, 2019 at DALA in Malden, Massachusetts and recorded it electronically. Both parties presented opening statements. Ms. Murphy testified on her own behalf. The Board presented no testimony. I marked in evidence, without objection, the 17 exhibits the parties had filed with their prehearing memoranda (Exhs. 1-13, proposed by the Board, and Exhs. A-D, proposed by Ms. Murphy). During the hearing, I marked one additional exhibit in evidence that I have renumbered as Exh. 17A—an authorization Ms. Murphy signed

during the hearing, at the request of Board counsel, for the release of relevant records in DUA's possession, custody and control. These included a spiral-bound notebook she testified to having maintained and in which she had kept notes describing her alleged workplace bullying and harassment; and emails she had exchanged, from 2013 through 2015, with her supervisor and the Director of Labor Relations at the former Department of Workforce Development (DWD).²

d.

Following the completion of Ms. Murphy's hearing testimony and cross-examination, Board counsel requested time to subpoena, from DUA, the work notebook and emails Ms. Murphy had identified. From my discussion with the parties before the hearing session ended, it appeared likely that the notebook and/or the emails, if they were found, might amplify material details regarding the workplace incidents in question, including whether they had occurred while Ms. Murphy was performing her work duties at specific times and at specific places.

With the parties' agreement, I issued an order on June 11, 2019 staying the closing of the evidentiary record. The order directed the Board to share with Ms. Murphy whatever DUA produced, and then report to me how the parties wished to proceed—for example, whether they requested further testimony by Ms. Murphy and/or other witnesses, and whether the parties wished to present closing arguments and file post-hearing memoranda. The stay order also directed the Board to report regularly on its efforts to obtain the materials in question.

²/ A subsequent state government reorganization moved functions performed by DWD into agencies and divisions within the Executive Office of Labor and Workforce Development (EOLWD), including the Department of Unemployment Assistance (DUA).

Neither party reported any success in obtaining these materials through the remainder of 2019. In March 2020, state government offices were closed following the Governor's declaration of a COVID 19-related health emergency. On April 2, 2020, I granted the Board's request to continue its time to file status reports on its efforts to obtain the office emails and notebook, and how the parties wished to proceed.

On July 2, 2020, the Board reported that it had voted to authorize issuing a subpoena to DUA to obtain the agency's records regarding Ms. Murphy. No further status reports followed over the next several months. In response to an order to file a status report that I issued on February 22, 2021, the Board stated that it had requested Ms. Murphy's personnel file from DUA, but that DUA had been unable to respond as its office remained closed and few, if any, staff were working there. The Board promised an updated report on April 12, 2021. No report followed.

On March 16, 2022 I issued an order directing the Board to report on its efforts to obtain the notebook, emails and other documents Ms. Murphy had identified. Neither party reported progress in obtaining these materials.

On June 30, 2023, I issued an order directing the parties to show cause why I should not close the evidentiary record, which would have left it as it was when the June 11, 2019 hearing session ended. The order also directed the parties to file post-hearing memoranda by August 25, 2023. Each party was directed to address, in its post-hearing memorandum, whether I should infer that if DUA had produced the materials subpoenaed by the State Board of Retirement, they would have corroborated Ms. Murphy's testimony about D.L.'s adverse workplace conduct. The order stated, as well, that while drawing such an inference "would likely not determine the outcome here . . . it would be relevant to the weight given to Ms. Murphy's testimony in

determining whether the denial of her accidental disability retirement application should be affirmed or reversed.”

In its July 11, 2023 reply, the Board requested that I continue to hold the record open and allow it additional time to assign a new attorney to handle the matter and make further efforts to obtain Ms. Murphy’s notebook, emails and other materials from DUA. Among other things, the Board noted that it was attempting to determine whether DUA had Ms. Murphy’s notebook and/or any of her 2013-15 emails.

The Board filed no further update over the next several months, and on November 30, 2023, I issued an order directing that it file, by December 15, 2023, a final response to the June 30, 2023 Order to Show Cause. This response was to state whether DUA had confirmed whether it had any of the materials in question in its possession, custody or control and, if so, which materials the agency had produced. The Board responded that after it had again subpoenaed the documents in question (because DUA reported having no record of the earlier subpoena), EOLWD confirmed that it did not have Ms. Murphy’s notebook and that it was “still in the process of producing Ms. Murphy’s personnel file and emails.”

On February 14, 2024, the Board filed and served a copy of documents received from DUA. These included office emails Ms. Murphy had sent or received between March 2013 and March 2015. Several of the emails were sent in the fall of 2013; most were sent in early 2015. Ms. Murphy’s notebook was not among the documents DUA produced. It was also not clear that DUA had produced all of the office emails Ms. Murphy had sent or received from 2013 through 2015, before she stopped working. There was no certification by DUA or EOLWD that they had

produced all of the subpoenaed materials that were found following a diligent search of the records in their respective custody and control.³

At the Board's request, and with no objection by Ms. Murphy, I marked the materials it had received from DUA and EOLWD collectively as Exhibit 18 in evidence on February 18, 2024. There are, as a result, a total of 19 hearing exhibits in evidence (Board Exhibits 1-13, Ms. Murphy's four exhibits (A-D), the authorization Ms. Murphy signed at the hearing (Exh. 17A) and the documents that DUA produced in response to the Board's prior requests and subpoenas in late 2023 (Exh. 18.)).

I also granted the Board's request to extend its time to file a post-hearing memorandum, and allowed both parties until February 24, 2024 to do so. The Board filed its post-hearing memorandum on February 23, 2024. Among other things, it argued that I should not draw any adverse inference regarding the non-production of Ms. Murphy's office notebook or any emails not produced because (1) Ms. Murphy had not made out a case for ADR eligibility that an adverse inference might support; (2) an adverse inference against the Board would be unfair as the Board was not Ms. Murphy's employer, did not have custody or control over these materials, had requested them once Ms. Murphy had identified them during her cross-examination, and had filed whatever materials DUA and EOLWD had produced, once they had produced them; and (3) there was no evidence that DUA or EOLWD was "maliciously withholding any material or ignoring the requests" for them. (Board Post-Hearing Memorandum (Feb. 23, 2024) at 11-12.)

³/ The emails produced included two from 2013: one dated October 31, 2013 (from Ms. Murphy to co-worker D.L.); and a response by D.L. to that email dated November 1, 2013. It also included one email from 2014, dated December 9, 2014 (from Ms. Murphy to Suzanne Quersher, the Department of Workforce Development's Director of Labor Relations). Most of the emails produced were from the first half of 2015—dated between January 23, 2015 and May 29, 2015.

Ms. Murphy filed no post-hearing memorandum. However, since I had previously given each party the option of resting on its prehearing memorandum, I consider Ms. Murphy's prehearing memorandum to be her post-hearing memorandum as well.

Findings of Fact

Based upon the testimony, hearing exhibits and other evidence in the record, and the reasonable inferences drawn from them, I make the following findings of fact:

a. DUA Work History

1. Petitioner Linda F. Murphy, a certified paralegal, was first employed by the Commonwealth in April 1991, when she began work at the DUA. She became a member of the Massachusetts State Employees' Retirement System on or about September 27, 1992.

2. Ms. Murphy was married to an abusive husband for many years until 2001, when she divorced him "as an alternative to jumping off a bridge."

(a) Ms. Murphy characterized her marriage as "living like a prisoner in her own home," and her husband as a person who lied to her, gambled, controlled her mail, and would not let her speak to her parents.

(b) Ms. Murphy continued to work at DUA during her marriage. After her divorce, she received excellent employee performance review ratings and was promoted to perform supervisory work. In 2007-08, she was appointed to supervise DUA's central document processing unit. (*See* Finding 4 below.) Toward the end of 2014, Ms. Murphy was appointed to supervise an interagency project that would scan DUA paper records and enter them into an electronic database that DUA and DOR would use to ensure that

the correct income tax was withheld from each unemployment insurance benefit payments. (*See* Findings 4-7 and 12 below.)

(c) Until January 2015, Ms. Murphy regarded herself as having recovered from her abusive marriage and having done well emotionally.

(Murphy direct testimony; Exh. 7: Medical panel's certificate; Report of Dr. Susannah L. Sherry dated Dec. 2, 2015 at 1; Exh. 9: Ms. Murphy's medical records; notes of primary care physician Dr. Daniel Trutt re Ms. Murphy's May 6, 2015 office visit.)

3. Ms. Murphy was diagnosed with multiple sclerosis (MS) in 2004. Her MS did not prevent her from performing her work duties, and she continued to work until late April or early May 2015. (Exh. 7: Dr. Sherry's Report at 2; Exh. 9: Medical records; notes of primary care physician Dr. Daniel Trutt re Ms. Murphy's May 23, 2014 physical examination.)

4. Starting in July 2004, Ms. Murphy was employed at DUA with the job title of "Program Coordinator III" and functional title of supervisor of DUA's central document processing unit, one of DUA's specialized services units.

(a) This unit developed, processed, scanned and electronically stored DUA's unemployment insurance-related data, including unemployment insurance claimants' wage information.

(b) In addition, DUA's central document processing unit provided assistance to DUA's staff as needed; and it directed and coordinated short-term unemployment assistance projects assigned by the DUA Field Operations Director. Ms. Murphy was responsible for implementing these projects.

(c) As the central processing unit's supervisor, it was Ms. Murphy's duty to assure that data received by the agency was properly scanned into, and indexed within,

the agency's automated unemployment assistance claims processing system, and that the agency's various units could access this data as needed.

(d) An additional, related duty Ms. Murphy had as the unit's supervisor was to respond to inquiries from agency call centers, employers and claimants regarding unemployment benefits and their processing. Her additional, related duties included working with vendors to upgrade and fine-tune software used to scan data; and developing forms DUA used to collect unemployment claims-related data the agency needed to process unemployment assistance claims.

(Murphy direct testimony; Exh. 6: Position Description ("Form 30") for Program Coordinator III, signed by Ms. Murphy and her DUA supervisor as of July 23, 2014; Exh. 10: Ms. Murphy's Employee Performance Review Forms for evaluation years July 1, 2004-June 6, 2005 through July 1, 2009 through June 30, 2010.)

5. Ms. Murphy remained a Program Coordinator III, and supervised DUA's central data processing unit, until she stopped working at DUA in April or early May 2015. (Murphy direct testimony; Exh. 3: Ms. Murphy's Accidental Disability Retirement application, dated May 8, 2015, at 3.)

6. Through at least 2010, Ms. Murphy received "exceeds" ratings for her work performance. In Ms. Murphy's employee performance review for 2008-09, her supervisor gave her an "exceeds" rating for her work performance in DUA's central document processing unit, and stated that Ms. Murphy had taken on and completed additional projects with accuracy and professionalism, while keeping all other processes running smoothly and efficiently. The supervisor also stated, in the 2008-09 performance review, that Ms. Murphy was "an asset to the agency" and "a pleasure to work with." In her employee performance review for 2009-10, Ms.

Murphy's supervisor gave her an "exceeds" rating for her work performance, and noted that Ms. Murphy had made significant progress in researching and implementing new processes for scanning and indexing records of the agency's various departments into DUA's new "FileNet system," saving DUA "a significant amount of money" that would have been needed to implement off-site record storage successfully. (Exh. 10: Linda Murphy Employee Performance Review Forms for 1998-99 through 2008-09.)

7. As of 2013, Ms. Murphy supervised a staff of 18 persons at DUA's central document processing unit. They included staff who reported directly to Ms. Murphy, and other staff who reported to them.

(a) Among the staff who reported directly to Ms. Murphy in 2013, 2014 and 2015 was D.L., a DUA Systems Coordinator/Administrator. D.L. supervised, in turn, two Clerks (levels II and V), a Word Processing Operator (level I) and an EDP (Entry Data Personnel) Operator (level III).

(b) Other central document processing unit staff Ms. Murphy supervised included an EDP Entry Operator IV, who supervised, in turn, three level III EDP operators. (Murphy direct testimony; Exh. 6: Ms. Murphy's position description ("Form 30") for "Program Coordinator III," dated Jul. 23, 2014); Exh. 7: Medical panel certificate; Report of panel member Dr. Susannah L. Sherry dated Dec. 2, 2015 at 2.)

b. 2013 Workplace Conflict with D.L.

8. On October 31, 2013, Ms. Murphy warned D.L. by email that by taking personal cell phone calls in the central processing unit's relatively small workplace during the work day, she had disrupted the central document processing unit's duty to respond to inquiries regarding unemployment benefits and their processing.

(a) Ms. Murphy had previously spoken to D.L. about taking personal phone calls during the work day, and DUA's agency policy on cell phone use in the workplace.

(b) On October 31, 2013, Ms. Murphy observed D.L. take an apparently personal cell phone call while another unit staff member was at her desk asking D.L. for an apparently work-related clarification. The call interrupted the clarification, which was never completed. Ms. Murphy sent D.L. an email at 3:00 p.m. that day regarding this event. Ms. Murphy mentioned, in her email, that she had discussed this personal phone call-related issue with D.L. several times previously, and stated that the cell phone call interruption she had observed earlier was "not condoned."

(c) The email also noted D.L.'s "many errors" in her work, including "[f]orms put together wrong, mail not being separated to be processed for [the Department of] Revenue, not knowing what [her] staff was working on, [and] scanners being left without work."

(d) Ms. Murphy commented in the email that D.L.'s phone calls, as well as her personal emails, were "taking up too much of [her] concentration." She directed D.L. to correct "all of this" at once so no further [disciplinary] action would be needed.

(Exh. 18: email dated Oct. 31, 2013 from Ms. Murphy to D.L.)

9. On November 1, 2013, D.L. replied by email to Ms. Murphy's email. In it, she denied disrupting the unit by taking personal cell phone calls, asserted that Ms. Murphy had singled her out for mistreatment, and stated that she would not allow Ms. Murphy to "continue to destroy" her or her job.

(a) D.L. stated in her email that she did not receive many cell phone calls or personal emails at work; that "EVERYONE" (emphasis in original) received and made

cell phone calls at work, sometimes for extended time periods; and that “[n]o one can control when a phone call comes in for them vs waiting to make a call on [a] break should she need to.”

(b) As to the cell phone call Ms. Murphy had observed, D.L. stated that the call had taken one minute and 15 seconds; and that “[f]or some reason,” Ms. Murphy just love[d] to stand over” D.L.’s desk, something she did not do with any other staff member no matter how long they were on the phone. D.L. stated that she was being singled out by Ms. Murphy for harassment and asked that Ms. Murphy cease doing so.

(c) D.L. also stated that, as to work errors, she was trying to do her best, and that she did not review batches of documents placed for scanning by other persons. D.L. stated she felt she was being blamed by Ms. Murphy for other people’s errors in organizing the order of these documents. She also stated that Ms. Murphy had “interrogated” her about scanning being done by others while she was scanning DUA documents and supervising others performing the same work, and that this had disrupted the ongoing scanning work she and her staff were performing.

(d) D.L. accused Ms. Murphy of “pounding on” her “over and over again,” watching her “like a hawk” and “waiting for something to happen” so she could “pounce,” and that she had tried repeatedly to work with Ms. Murphy and please her. She accused Ms. Murphy of “continually trying to slam [her] down” and make her miserable, and looking for something to pick on D.L. about and “further damage” her “and to possibly threaten” her job. D.L. ended her email by stating that she would not allow Ms. Murphy to “continue to try to destroy” her or her job.

(Exh. 18: email dated Nov. 1, 2013 from D.L. to Ms. Murphy.)

10. Ms. Murphy considered D.L.'s November 1, 2013 email, particularly its last sentence about not allowing Ms. Murphy to destroy her or her job, to be a threat. (Murphy direct testimony.)

(a) At some point after November 1, 2013, Ms. Murphy discussed D.L.'s November 1, 2013 email with a union representative who did not work in the unit Ms. Murphy supervised, and "offered" to file a grievance with the union. The union representative advised her not to do so, and, instead, suggested that Ms. Murphy avoid further conflict with D.L. and stay away from her if possible. (Murphy direct testimony.)

(b) The record does not show whether Ms. Murphy discussed D.L.'s November 1, 2013 email with her own supervisor, Massachusetts Department of Employee Training (DET) Deputy Director of Field Operations Eveliz Arroyo-Barrows.

(c) The documents that the Board obtained from DUA and the Executive Office of Labor and filed in early 2024 (*see* Exh. 18) include no further emails from 2013. They include one email from late 2014, in which Ms. Murphy told Department of Workforce Development Director of Labor Relations Suzanne Quersher that she considered D.L.'s November 1, 2013 email, particularly the last sentence, to have been a threat. (*See* Exh. 18: email dated Dec. 9, 2014 from Ms. Murphy to Ms. Quersher.)

11. On May 24, 2014, Ms. Murphy saw her family physician, Dr. Daniel Trutt, for a regular visit and physical examination. Dr. Trutt recorded no ongoing workplace conflict or events that were causing Ms. Murphy emotional stress at the time. He noted that Ms. Murphy reported feeling well and stated that her MS had not been active, although she continued to follow up with her neurologist, Dr. Jonathan Ross, regarding this condition. Although Ms. Murphy was smoking half a pack of cigarettes daily, she denied breathing problems or a

prolonged cough; however, she told Dr. Trutt that she felt tired and had gained weight. She attributed her smoking, tiredness and weight gain to stress related to having to care for her mother, who had a terminal illness. In response to Dr. Trutt's questions, Ms. Murphy denied feeling down, depressed or hopeless. She also denied having little interest in, or obtaining no pleasure from, doing things. Dr. Trutt's record for this visit does not mention any statement by Ms. Murphy regarding any workplace occurrence that was preventing her from performing her work duties. (Exh. 9: Medical records; notes of primary care physician Dr. Daniel Trutt re Ms. Murphy's May 24, 2014 office visit and physical examination.)

c. Supervision of Interagency Project, and Related Workplace Conflict with D.L., in early 2015

12. In late 2014, while she was still working as DUA's central document processing unit supervisor, Ms. Murphy was assigned by the agency's Commissioner to supervise an interagency priority project involving employees from both DUA and DOR.

(a) The project's objective was to scan unemployment benefits-related paper records, mostly from DUA, and input the scanned data into DUA's electronic database. The project's purpose was to ensure the accuracy of United States Internal Revenue Service Form 1099-MISCs that DOR issued to Massachusetts unemployment benefits recipients, particularly the amount of income tax that was being withheld from unemployment assistance benefits payments.⁴

⁴/ IRS Form 1099-MISC reports certain types of income paid to a taxpayer during a particular year other than wages, salaries, and tips—for example, unemployment insurance benefits payments paid by the Commonwealth of Massachusetts. It is used by the taxpayer to prepare a federal tax return (U.S. Form 1040) for that year, and a state tax return if one is due (e.g., Massachusetts Form 1).

(b) The project was important because it would assure that unemployment insurance benefits recipients were paid the amounts to which they were entitled, after the Commonwealth withheld the proper amount of income taxes from these payments, which were taxable as income to the recipient.

(c) It was the central data processing unit's role to assure that the database information from which the Form 1099-MISCs would be generated showed accurately the tax withholdings from unemployment insurance benefits payments to each recipient. DOR relied upon the unemployment benefits data that DUA maintained in issuing these Form 1099-MISCs. It had done so using DUA's paper records and was transitioning to using DUA's electronic database instead.

(Murphy direct testimony.)

13. D.L. was one of the DUA employees assigned to the interagency project who Ms. Murphy supervised. (Murphy direct testimony; *see also* State Bd. of Retirement's Post-Trial Memorandum, Feb. 23, 2024 at 5; *see also* Exh. 18 at 1-2 (email dated Jan. 23, 2015, from Ms. Murphy to interagency project staff (regarding eating in work areas, and which doors the interagency project staff could use to enter and exit the project's work area.)))

14. On January 23, 2015, Ms. Murphy sent an email to the interagency project staff, including D.L., concerning (a) the protection of documents being scanned, and the scanning equipment, by confining food and beverage consumption in the unit's DUA space to work cubicles; and (b) courtesy in opening and closing doors to the unit's tight space in order to minimize noise for other staff. The email prompted negative comments by D.L. and intervention by Ms. Murphy's supervisor, Ms. Arroyo-Barrows.

(a) In her January 23, 2015 email, Ms. Murphy notified the interagency project staff, including D.L., that while they could eat in their work cubicles, they had to protect paper documents the unit was processing and the scanning equipment from crumbs and spills, among other things by not consuming food or beverages where scanning was done. Ms. Murphy also stated in her email to interagency project staff that while they could use the emergency exit door, and the door closest to Ms. Murphy's office, to exit and enter the unit, they needed to open and close doors gently so as to avoid disruption to staff, especially while they were on the phone.

(b) On January 29, 2015, while they were working in an open area where documents were being processed and several staff members were present, D.L. stated that Ms. Murphy's January 23, 2015 email was unfair to project staff.

(c) Ms. Murphy took offense at D.L.'s comments and where she had chosen to make them, in an email she sent on January 29, 2015 to Ms. Arroyo-Barrows, and to Department of Workforce Development Director of Labor Relations Suzanne Quersher. In this email, Ms. Murphy stated that D.L.'s comment and attitude were having a stressful impact on the interagency project and the staff working on it. She also suggested that D.L. be moved to a different department or project, such as DUA's "returned mail project."

(d) Ms. Arroyo-Barrows determined that D.L.'s comment to Ms. Murphy had been "inappropriate," as were the alleged comments D.L. reported as having been made by other interagency project staff regarding Ms. Murphy's January 23, 2015 email. She scheduled a meeting for January 30, 2015 to discuss the matter with D.L., Ms. Murphy,

and representatives from the union to which both of them belonged, the National Association of Government Employees (NAGE).

(e) Following the meeting, Ms. Arroyo-Barrows sent an email on January 30, 2015 to Ms. Murphy, D.L. and the union representatives in which she confirmed the importance of protecting the thousands of documents the interagency project was scanning so they remained unsoiled and in their original condition.

(f) Ms. Arroyo-Barrow's email also mentioned comments by D.L. to the effect that it was unfair to some interagency project staff that they were required to eat at their work stations, and that project staff were not allowed to bring food or open beverage containers to the scanning and mail areas. Ms. Arroyo-Barrows's email directed D.L. to adhere to the directive from Ms. Murphy, and to "make sure the staff does not hear about [D.L.'s] dissatisfaction or add to any additional drama." It also directed that D.L. and any other supervisors "should try to address and discourage any unnecessary comments made by staff relevant to procedures, directives, policies, etc."

(g) Ms. Arroyo-Barrows also stated in her January 30, 2015 email that "it is expected that everyone is treated professionally and respectfully" based upon the NAGE Code of Conduct, and that D.L. was expected to work with fellow union members to address problems or issues that arose in the workplace.

(Exh. 18 at 1 (email dated Jan. 23, 2015, from Ms. Murphy to DUA staff assigned to the interagency working unit); at 2 (email dated Jan. 29, 2015, Ms. Murphy to Ms. Arroyo-Barrows, MassDET Deputy Director of Field Operations, Massachusetts Dep't of Workforce Development, with "cc" to Suzanne Quersher); and at 3-4 (email dated January 30, 2015 from Ms. Arroyo-Barrows to D.L., Ms. Murphy and the union representatives.))

15. On January 29, 2015, Ms. Murphy sent an email to her supervisor, Ms. Arroyo-Barrows, stating that D.L. had approached her while she was discussing another unit staffperson's schedule and commented that she had seen Ms. Murphy "yapping" with this other staffperson.

(a) Ms. Murphy commented in her email that what she had been discussing with the other staffperson was none of D.L.'s business, and that she had also spoken with the Executive Office's Labor Relations Director, Suzanne Quersher, about this incident.

(b) In her email to Ms. Arroyo-Barrows, Ms. Murphy stated that she was getting "sick to [her] stomach" coming to work, that D.L. was causing "so much stress it is not funny" to DUA central document processing unit staff, and that the workplace atmosphere was more relaxed and unit staff felt less "targeted" when D.L. was out. Ms. Murphy suggested that DOR staff who were working on the interagency project return to DOR, and that D.L. be transferred to "the returned mail project," a different ongoing interagency project that needed additional staff to process a large, ongoing volume of mail sent to unemployment benefits recipients that had been returned as undeliverable. (Exh. 18: email dated Jan. 29, 2015, from Ms. Murphy to Eveliz Arroyo-Barrows.)⁵

16. On March 3, 2015, Ms. Murphy sent an email to her supervisor, Ms. Arroyo-Barrows, asking how she should handle an ongoing issue with D.L. not following directives.

⁵/ D.L. was ultimately transferred from the interagency project Ms. Murphy supervised, but not until April 7, 2015 and apparently without prior notice of the transfer to Ms. Murphy. By that time, D.L.'s insubordinate workplace conduct had aggravated Ms. Murphy's preexisting depression and PTSD to the point of inability to perform her work duties. *See* Findings 21-23.

(a) Ms. Arroyo-Barrows's email reply, on the same day, directed Ms. Murphy to "write it up and send it to Suzanne [Quersher] for review."

(b) Ms. Murphy did so later that day, advising that the issue with D.L. not following directives was "ongoing" and that attempting to have another interagency project staffperson speak to D.L. about this did not help.

(c) Ms. Quersher responded, also on March 3, 2015, by asking Ms. Murphy to describe an incident involving D.L. that occurred in late February 2015.

(Exh. 18: emails dated March 3, 2015 among Ms. Murphy, Ms. Arroyo-Barrows and Ms. Quersher.)

17. That incident occurred on February 26-27, 2015 and involved testing a "system build" to correct slow processing by DUA's electronic database of scanned documents. Ms. Murphy described what had happened in her March 3, 2015 reply to Ms. Quersher.

(a) There had been a "build" on the night of February 26, 2015 that included a "fix to correct an issue with late issues."

(b) To test whether the "build" had been successful in resolving data processing slowness, Ms. Murphy instructed interagency project staff to set aside, as a test sample for scanning, a number of DUA "lack of work" forms. These were forms on which unemployment insurance benefits recipients reported information concerning their full or partial unemployment. She instructed staff to perform this test sample scanning before proceeding with a "full scan" of DUA documents.

(c) Ms. Murphy left the floor on which the project staff were working and went to the computer room on a different floor. When she returned, she looked at the forms that her staff had selected to run a test sample scan.

(d) She found that D.L. had gone ahead with a full document scan, despite Ms. Murphy's instruction to only select forms to be used in a sample scan, and that D.L. had directed a staffperson she did not supervise to perform the full scan.

(e) D.L. had also disregarded a prior directive to not give instructions to staff she did not supervise. Instead, D.L. had been directed by Ms. Murphy to see the supervisor of such staff if she needed work done, and let that supervisor handle the work request.

(f) Ms. Murphy stated, in her March 13, 2015 email reply to Ms. Quersher, that D.L. knew she did not want the full scanning of DUA forms to resume until she "knew that the fix had worked properly," but "as [to] every instruction ever given to her by [Ms. Murphy] she chose to do as she wanted. This [was] not new behavior and has not been corrected even though her own fellow union people have told her to correct it."

(g) Ms. Murphy also stated in her email reply that D.L.'s conduct had contributed to "a very hostile working environment" in which D.L. "did the exact opposite" of what Ms. Murphy's instructed, and felt she could disregard Ms. Murphy's instructions and instead "do whatever she wants to whoever she wants."

(Exh. 18: emails dated March 3, 2015 sent by Ms. Murphy, Ms. Arroyo-Barrows and Ms. Quersher.)

18. The emails produced by DUA and EOLWD and filed by the Board in early 2024 include none that advised Ms. Murphy how to handle, in her workplace, the February 26-27, 2015 incident she had described in her March 3, 2015 email to Ms. Quersher.

19. On March 5, 2015, Ms. Murphy sent an email to Ms. Arroyo-Barrows and Ms. Quersher stating that she had gone to see Ms. Quersher that morning and, afterward, "[h]ad a

meltdown” because she could not “take the garbage in here anymore,” and needed to “try and regain” her composure. In this email:

(a) Ms. Murphy reported “yet another incident of insubordination” by D.L. Her March 5, 2015 email stated that D.L. had called a person who was not part of the central document processing unit’s staff and who was involved, instead, in the pickup of the unit’s recycled office materials.

(b) Ms. Murphy related that during the call, D.L. had audibly conveyed “an attitude about the recycling bins.” D.L. had also “yelled across the office” to a staffperson about the bins. Ms. Murphy stated that she had “made it clear many times” that calls to IT and other units were to go through her first and that no one was to call or email them without first letting Ms. Murphy know.

(c) Ms. Murphy stated:

We need to have a solid scanning unit as this unit is the heartbeat of the agency and I have done everything in my power to try to make it work. I continue to work to fix issues in the system with help from IT . . . I have had almost 25 years at the agency with a stellar reputation and want to continue to put my best foot forward.

(Exh. 18: email dated Mar. 5, 2015 from Ms. Murphy to Ms. Arroyo-Barrow and Ms. Quersher re “Today”).

20. Also on March 5, 2015, Ms. Quersher emailed another manager at the Department of Workforce Development (now part of EOLWD), asking what his “thoughts” were about the email exchange Ms. Murphy had with D.L. 16 months earlier (during the period October 31–November 1, 2013; *see* Findings 8-10) regarding personal calls at the office, because Ms. Murphy “perceives it as a threat.” Ms. Quersher was referring to Ms. Murphy’s December 9, 2014 email about the late 2013 occurrence. (*See* Findings 9 and 10(c).) This manager replied to

Ms. Quersher that he viewed what D.L. had said (in her November 1, 2013 email to Ms. Murphy) “as a threat to go to [the] union, and/or file a complaint.” (Exh. 18: EOLWD office emails dated Mar. 5, 2015 sent and received by Suzanne Quersher “re: Personal Calls.”)

21. In late March 2015 Ms. Murphy reported, by email to Ms. Quersher, derogatory comments D.L. had made to her in the workplace about a snack Ms. Murphy was having in her office, and advised Ms. Quersher that these comments and prior conduct on D.L.’s part had created a debilitating health crisis for her.

(a) During the morning of March 31, 2015, Ms. Murphy was sitting in her office eating a snack of sesame sticks when D.L. came by and stated, “Oh your (sic) eating dog food?” Previously, D.L. had made comments to other unit staff about “fried chicken.” Murphy stated that D.L. was affecting her physical and mental health. Ms. Murphy also stated that she had been seeing a therapist about her depression, and that at times she was experiencing blurred vision.

(b) Ms. Murphy reported this to Ms. Quersher in an email she sent later that morning. She asked for any help Ms. Quersher could provide. Ms. Murphy stated in her email that:

Honestly, I sat all day Sunday in bed and cried. I don’t know what to do next to separate myself from this harassment and abuse from [D.L.]. I am worried for my staff, as they also don’t know what is going to come next from her. The incident from the other [day] with her making [the] statement about the fried chicken . . . [S]taff were very upset about the remark. I did reach out to the disabilities people looking for assistance as this was creating a big health problem for me. Any assistance would be greatly appreciated.

(c) In a reply email she sent shortly afterward, Ms. Quersher recommended that Ms. Murphy contact an employee assistance program she specified (CMG Associates) that offered free and anonymous counseling services for workplace stress. She also

suggested that Ms. Murphy look into whether she would qualify for leave under the Family Medical Leave Act (FMLA).

(d) Ms. Murphy replied that she had contacted CMG three weeks earlier and left her telephone number but had not heard from them. Ms. Quersher replied “OK. Please don’t hesitate to try again. Thanks.”

(Exh. 18: emails dated March 31, 2015 between Ms. Murphy and Ms. Quersher re “Today”) (ellipses in original).

22. Effective April 7, 2015, D.L. was transferred from the DUA unit Ms. Murphy supervised to the agency’s Boston Call Center. (Exh. 18: letter dated Apr. 6, 2015 from Ms. Quersher to D.L.) The letter shows no recipient other than D.L. The record does not show whether, and if so when, Ms. Murphy was notified of D.L.’s transfer.

23. Ms. Murphy stopped working sometime in late April or early May 2015. (Murphy direct testimony; *see also* Exh. 7: Medical panel certificate; Report of Dr. Susannah L. Sherry dated Dec. 2, 2015 at 2.)⁶

24. On May 6, 2015, Ms. Murphy again saw Dr. Trutt because she was “in a great deal of emotional distress, related to issues in the workplace.”

⁶/ The medical panel report, dated December 5, 2015, stated that Ms. Murphy last worked “in April ’15.” (*See* Exh. 8 at 2, first full para., first line.) The remainder of the record lacks any more precision as to the date on which Ms. Murphy last worked at DUA. The Employer’s Statement regarding Ms. Murphy’s ADR application does not provide Ms. Murphy’s last date of work. (*See* Exh. 5.) The Board’s June 13, 2019 prehearing memorandum stated that “[u]pon information and belief, Ms. Murphy stopped working in or around 2015” (at 2, statement of fact 4). Ms. Murphy’s hearing testimony did not provide a precise date on which she stopped working at DUA.

(a) Dr. Trutt's notes for this visit describe Ms. Murphy as tearful, distraught, emotional with frequent crying, and having a depressed effect, although her thoughts appeared clear, and she showed "some insight" into her current situation.

(b) Ms. Murphy told Dr. Trutt that for the past several years she had been supervising a female employee with whom she "had a strained relationship," and who had gone out of her way "to say mean, critical and demeaning things." She related having brought this situation to the attention of her agency's human resources department, which declined to do anything because there "ha[d] not been any frank abuse or harassment..."

(c) Ms. Murphy also described the emotional distress she felt on account of this employee's behavior. She had come to identify this person with her ex-husband and had difficulty distinguishing the two. Being in this employee's presence made her "so uncomfortable that she could no longer bear it." She had found herself "unable to think of anything else" and struggled to go to work each day, and was "isolating herself increasingly outside of work."

(d) Dr. Trutt's impression was that Ms. Murphy was suffering from post-traumatic stress disorder (PTSD). He prescribed medication to treat her major depression. Because Ms. Murphy did not want to start medication, Dr. Trutt recommended that she begin therapy instead; and because Ms. Murphy worked in Boston, he suggested that she contact behavioral health services at Massachusetts General Hospital. He also scheduled Ms. Murphy for a follow-up visit and physical examination.

(Exh. 9: Medical records; notes of primary care physician Dr. Daniel Trutt re Ms. Murphy's May 6, 2015 office visit.)

d. Ms. Murphy's ADR Application

25. On May 8, 2015, Ms. Murphy filed an accidental disability retirement application with the State Board of Retirement.

(a) Ms. Murphy claimed to have become disabled by PTSD and severe depression, and unable to perform the essential duties of her DUA supervisory position, as the result of “constant” harassment, bullying, and being “the target of 2 women” who she supervised at DUA’s central document processing unit, and who knew she had multiple sclerosis and was a survivor of domestic abuse.

(b) Ms. Murphy characterized this as having been both a personal injury and a hazard undergone, and gave the date of injury and the specific time of the hazard and the length of time she had been exposed to it as “over 2 yrs.”

(c) Ms. Murphy also stated in her ADR application that the harassment, bullying and targeting had brought back symptoms of domestic abuse she had suffered previously and had also exacerbated her multiple sclerosis, and had disabled her to the point of being unable to concentrate on anything, constantly crying, and always wondering when the next attack will come and what it will be.” She also stated that she had a fear of being “trapped somewhere by these women” and “that there is a total conspiracy to harm me.”

(Exh. 3: Ms. Murphy’s accidental disability retirement application, at 2, 5, 6 and 11.)⁷

⁷/ The other portions of Ms. Murphy’s ADR application were filed later. Dr. Trutt filed a physician’s statement pertaining to Ms. Murphy’s ADR application on July 9, 2015 (Exh. 4; *see* Finding 28 below.) The Employer’s Statement relative to the ADR application was filed on July 10, 2015. (Exh. 5; *see* Finding 29 below.)

26. In May 2015, Ms. Quersher advised Ms. Murphy that if she returned to work at DUA, she would do so with the same title, pay and work unit assignment she had before, “but with slightly different supervision and projects.” Ms. Quersher also advised Ms. Murphy to apply for an extension of her FMLA leave if she did not wish to return to work, and so that her leave would be protected as she waited to hear about whether she qualified for ADR. Ms. Murphy and Ms. Quersher filed the forms needed to extend her FMLA leave. (Exh. 18: emails between Ms. Quersher and Ms. Murphy dated May 12, 21 and 29, 2015.) It is not disputed that Ms. Murphy was granted this extended leave.

27. Ms. Murphy next saw Dr. Trutt on June 2, 2015.

(a) During her physical examination, she appeared depressed, with poor eye contact. Dr. Trutt recorded her most pressing issues as her multiple sclerosis and, as well, PTSD and depression.

(b) Dr. Trutt recorded in his notes that Ms. Murphy was “still significantly debilitated by PTSD and depression,” and felt unable to return to work. He also noted that Ms. Murphy was “currently on leave of absence because of PTSD” from her job as an unemployment office supervisor.

(c) Ms. Murphy told Dr. Trutt that she was still trying to find a therapist, but “everywhere she called ha[d] a waiting list” and she had yet to schedule an appointment. She also remained reluctant to try medication, although the neurologist treating her MS (Dr. Jonathan Ross in Lawrence, Massachusetts) suggested that she do so, considering “how much difficulty she was having at present.”

(d) Even though Ms. Murphy was still reluctant to begin medication, Dr. Trutt gave her prescriptions for medications to help with her anxiety and depression symptoms. He directed Ms. Murphy to schedule a follow-up visit in 4-6 weeks.

(Exh. 9: Medical records; notes of primary care physician Dr. Daniel Trutt re Ms. Murphy's June 2, 2015 office visit.)

28. Dr. Trutt prepared a treating physician's statement, dated July 9, 2015, relative to Ms. Murphy's ADR application. He stated her medical diagnosis as "PTSD/ depression/ multiple sclerosis." (Exh. 4 at 2.) He also stated that Ms. Murphy was mentally or physically incapable of performing the essential duties of her job as a Program Coordinator III, likely permanently, as a result of "increasing depressive symptoms which are severely limiting" over the three months preceding his Physician's Statement, and that maximum medical improvement through psychotherapy and medications had been reached. (*Id.*) As well, Dr. Trutt stated that Ms. Murphy's incapacity was such as might be the natural and proximate result of a job-related personal injury or hazard undergone that Ms. Murphy claimed ("repeated episodes of bullying and harassment from a workplace colleagues [sic] since 2013"), and that a "hostile workplace environment" had contributed to or resulted in the claimed disability, noting that Ms. Murphy's "history of PTSD was not an issue" until the workplace became hostile for her. (*Id.* at 3.)

29. Ms. Arroyo-Barros, Ms. Murphy's direct supervisor, filed an Employer's Statement pertaining to the ADR application on July 10, 2015. (Exh. 5.) As to the basis of the accidental disability Ms. Murphy claimed, Ms. Arroyo-Bassos wrote "PTSD & Severe Depression." (*Id.* at 1.) She stated that based on her experience and qualifications, Ms. Murphy could continue to hold her current supervisory position. (*Id.* at 2.) She also stated that Ms. Murphy had requested to be transferred from her DUA unit, and that, as a reasonable

accommodation, Ms. Murphy's supervisory duties had been "modified to have no direct reports," although no date was given for this action. (*Id.* at 3.) As to the occurrence of an incident or hazard undergone related to Ms. Murphy's job duties, Ms. Arroyo-Barros wrote "N/A." (*Id.* at 4, 5.) She also checked "no" as to whether Ms. Murphy had applied for, or received, Worker's Compensation benefits. (*Id.* at 7.)

e. Unanimous Affirmative Psychiatric Medical Panel Opinion

30. At the Board's request, the Public Employee Retirement Administration Commission (PERAC) convened a medical panel comprising three psychiatrists (Dr. Michael Kahn, Dr. Susannah Sherry, and Dr. George Dominiak) to examine Ms. Murphy and issue a certificate as to whether she was disabled and, if so, whether the disability was likely to be permanent, and whether it was "such as might be the natural and proximate result of the personal injury sustained or hazard undergone on account of which retirement is claimed."

(a) The Board forwarded to the medical panel a copy of Ms. Murphy's ADR application, Dr. Trutt's physician's statement and the employer's statement relative to the ADR application, Ms. Murphy's Program Coordinator III job description, and Ms. Murphy's medical records.⁸

⁸/ When it sent these materials to the medical panel in December 2015, the Board did not have the emails and other correspondence that DUA and EOLWD produced several years later and that were marked here as Exhibit 18. As a result, the panel members, too, did not have these materials to review. The dates and description of workplace conflict between Ms. Murphy and D.L. that Dr. Sherry's report presents differ somewhat from what the emails and other documents in Exhibit 18 show. However, neither the medical panel's opinion nor Dr. Sherry's report was dependent upon the detail regarding the workplace incidents that the later-produced office emails show. Instead, Dr. Sherry's report focused on the negative impact the workplace incidents involving the coworker had on Ms. Murphy's mental health, particularly in reviving negative personal feelings and loss of self-confidence she experienced during her abusive marriage but that had not impeded Ms. Murphy's work performance prior to the incidents with D.L. in the DUA scanning unit. (*See* Exh. 8: Dr. Sherry's Report, dated Dec. 2, 2015.)

(b) The panel members examined Ms. Murphy on October 30, 2015 and issued, subsequently, a unanimously affirmative certificate as to her disability, its likely permanence and its possible work-related causation. Dr. Sherry wrote a report explaining the medical panel's unanimous affirmative opinions as to the three questions the panel was asked to address. (Exh. 7: transmittal of background information to medical panel; Exh. 8: Medical panel certificate, and attached Report of Dr. Susannah Sherry dated Dec. 2, 2015.)

31. Dr. Sherry's report reveals that she and her fellow medical panelists considered Ms. Murphy's incapacity and its likely permanence to have been the possible result of a "hazard undergone," and that the hazard undergone was coworker hostility toward her during a series of incidents in the agency workplace between 2013 and April 2015. The report presented the following history, diagnosis, prognosis and conclusions:

(a) The history Ms. Murphy gave included an abusive marriage to a controlling spouse who had virtually imprisoned her in her home; her 25 years of work for DUA; and feeling "competent and successful in general in her work" at DUA and proud of her "recovery" from her marital abuse situation, and being promoted at her workplace over the 7-8 years preceding her last day of work in April 2015. However, starting 2½ years before she stopped working, she became the target of two co-workers she supervised who "gossiped and spread mean-spirited rumors" about Ms. Murphy and "made the others in the department lose trust in her." One of these women (probably referring to D.L.) wrote an email telling Ms. Murphy "[y]ou must not be allowed to ruin my career" that Ms. Murphy considered to be a threat but as to which she was told by her union and workplace human relations department that there was nothing that could be done. Ms.

Murphy's experience with these two coworkers had "brought back the vivid and terrible feelings from her marriage – of betrayal, humiliation, insolation and being unheard." On January 2015, Ms. Murphy told the medical panel members that "the hostility was unbearable, and she began calling in sick with increasing frequency [and] developed anxiety, recurring panic episodes, depression with passive suicidality, hopelessness and anhedonia (reduced motivation or ability to experience pleasure)." (Exh. 8: Dr. Sherry's Report at 1-2.)

(b) Ms. Murphy stopped working entirely in April 2015, and was diagnosed with major depression, for which her primary care physician (Dr. Trutt) had prescribed an antidepressant and medication to control panic attacks when they occurred. Ms. Murphy related that, upon Dr. Trutt's recommendation, she had begun therapy, but she felt she needed more therapy than her therapist was able to provide. (*Id.* at 2.)

(c) Ms. Murphy related that she was currently doing very little, was recovering from knee surgery, dreaded going to public or social spaces, was mostly solitary, and was unable to concentrate. She was tearful throughout the panel's examination but not psychotic, and she was "sad, with frustrated overtones," but exhibited "no suicidal or homicidal ideation." (*Id.*)

(d) Ms. Murphy's multiple sclerosis was diagnosed 13 years earlier (in 2002) after an episode of transient vision in one eye. While Ms. Murphy's MS could contribute to depression, she had received no treatment for it, and experienced no other signs of an MS episode or flare-up, or MS-associated deterioration. (*Id.* at 3.)

(e) Ms. Murphy's symptoms fit the criteria for major depression, and post-traumatic stress disorder "associated with her abusive marriage, and exacerbated by her

workplace atmosphere.” While Ms. Murphy’s treatment as of December 2015 had not been lengthy, and her therapy was “probably not sufficiently intensive,” her “chronic history of being in an abusive relationship make her especially vulnerable to recovery (sic) and she remains quite impaired.” (*Id.*)⁹

(f) The panel’s prognosis was that “[g]iven the duration and severity of unremitting symptoms, despite therapy and antidepressant treatment, Ms. Murphy’s prognosis is guarded.”

(g) Based upon a review of Ms. Murphy’s job description and medical records, and Ms. Murphy’s symptoms, it was the medical panel’s opinion that Ms. Murphy was incapable of performing the essential duties of her job; she would be “unable to tolerate a return to her job,” as a result of which her incapacity “should be considered permanent;” and her incapacity was “such as might be the natural and proximate result of the hazard undergone on account of which retirement is claimed.” (*Id.*)

f. Ms. Murphy’s Superannuation Retirement Application; Approval of Ordinary Disability Retirement; and ADR Denial

32. On March 20, 2016, while she was on medical leave and her ADR application was still pending, Ms. Murphy filed an application for superannuation retirement with the Board. She did so because she was without any income at the time. (Murphy direct testimony; Exh. 11.)

⁹/ “Vulnerable to recovery,” taken literally, would have meant that Ms. Murphy could recover from her preexisting PTSD readily, making the permanence of disability doubtful or at least uncertain. However, all three medical panel members opined that Ms. Murphy’s incapacity “should be considered permanent.” In context, therefore, it is possible that Dr. Sherry meant to say that Ms. Murphy’s prior depression and PTSD had been “vulnerable to recurrence,” for example as the result of insubordinate and defiant conduct toward her by project staff.

33. On May 24, 2016, the Board voted to approve Ms. Murphy's superannuation retirement application and her request that the effective date of her retirement be April 29, 2016—the expiration date of her approved leave from work under the federal Family and Medical Leave Act and the applicable collective bargaining agreement between the Commonwealth and her union (NAGE Unit 6). (Exh. 12.)

34. On June 29, 2017, the Board denied Ms. Murphy's ADR application based upon her failure to establish that she was disabled "by reason of a personal injury sustained or hazard undergone as a result of, and while in the performance of, [her] duties at some definite place and at some definite time," as required by M.G.L. c. 32, § 7(1). (Exh. 1.) The Board also voted to approve Ms. Murphy's ordinary disability retirement retroactive to April 29, 2016. (*Id.*)

35. On July 11, 2017, Ms. Murphy filed a timely appeal of the Board's ADR denial to the Division of Administrative Law Appeals (DALA) pursuant to M.G.L. c. 32, § 16(4). (Exh. 2.)

36. On October 16, 2017, the Board notified Ms. Murphy that it had converted her superannuation retirement benefit to an ordinary disability retirement benefit, retroactive to April 29, 2016. (Exh. 14.)

*Discussion**1. ADR Eligibility**a. Generally*

A public contributory retirement system member may receive accidental disability retirement (ADR) benefits when she is “unable to perform the essential duties of [her] job and that such inability is likely to be permanent . . . by reason of a personal injury sustained or a hazard undergone as a result of, and while in the performance of, [her] duties at some definite place and at some definite time . . .” M.G.L. c. 32, § 7(1). An ADR applicant must show either that the disability “stemmed from a single work-related event or series of events” or, “if the disability was the product of a gradual deterioration, that the employment [had] exposed [the employee] to an identifiable condition . . . that is not common and necessary to all or a great many occupations.” *Blanchette v. Contributory Retirement Appeal Bd.*, 20 Mass. App. Ct. 479, 485, 481 N.E.2d 216, 220 (1985); *see also Rosario v. Fall River Retirement Bd.*, Docket No. CR-13-233, Decision at 2-3 (Mass. Contributory Retirement App. Bd., Oct. 6, 2022). The ADR applicant may proceed on either or both of these theories. Whichever theory or theories she asserts, however, the injury or hazard undergone must have been sustained “during the actual performance of duties that the applicant undertook to perform on behalf of the public.” *See Murphy v. State Bd. of Retirement*, Docket No. CR-17-1021, Decision at 1-2 (Mass. Contributory Retirement App. Bd., Oct. 7, 2024).

An ADR application cannot be approved unless a regional medical panel has examined the applicant and issued a unanimous or majority affirmative opinion that she is unable to perform the essential duties of the job; that this incapacity is likely to be permanent; and that the

disability is “such as might be the natural and proximate result of the accident or hazard upon which the retirement application is based.” M.G.L. c. 32, §§ 6(3) and 7(1); *Fairbairn v. Contributory Retirement App. Bd.*, 54 Mass. App. Ct. 353, 354, 765 N.E.2d 278, 279 (2002); *Malden Retirement Bd. v. Contributory Retirement App. Bd.*, 1 Mass. App. Ct. 420, 423, 298 N.E.2d 902, 904 (1973). The medical panel’s unanimous or majority certification of affirmative answers to all three questions “is a ‘condition precedent’ to accidental disability retirement.” *Fairbairn*, 54 Mass. App. Ct. at 354, 765 N.E.2d at 279.

With respect to a causal connection between the ADR applicant’s disability and a work injury, the panel makes “a mere statement of medical possibility” in finding whether or not the disability was “such as *might be* the natural and proximate result of the personal injury sustained or hazard undergone on account of which retirement is claimed.” *Lisbon v. Contributory Retirement Appeal Bd.*, 41 Mass. App. Ct. 246, 254, 670 N.E.2d 392, 398 (1996), *quoting* M.G.L. c. 32, § 6(3) (emphasis added) *and citing* *Noone v. Contributory Retirement Appeal Bd.*, 34 Mass. App. Ct. 756, 762, 616 N.E.2d 126, 130 (1993). For this reason, a medical panel’s unanimous or majority affirmative opinion as to the possibility of work-related causation does not determine conclusively whether the work injury the ADR applicant claims was the natural and proximate cause of her disability (or its aggravation) emerging when it did. See *Campbell v. Contributory Retirement App. Bd.*, 17 Mass. App. Ct. 1018, 1018, 460 N.E.2d 213, 215 (1984), *rev. denied* 391 Mass. 1105, 464 N.E.2d 73 (Table) (1984). That issue is left for determination by the retirement board and, on further appeal, by the Contributory Retirement Appeal Board, based on the underlying evidence, including the medical and non-medical facts found during the appeal process. *Lisbon*, 41 Mass. App. Ct. at 254, 670 N.E.2d at 398, *citing* *Blanchette*, 20 Mass. App. Ct. at 483, 481 N.E.2d at 219.

Although the medical panel's positive opinion is not conclusive as to whether the ADR applicant's disability is proximately related to the workplace injury she claims, it is "some evidence on the issue." *Lisbon*, 41 Mass. App. Ct. at 254, 670 N.E.2d at 398. The medical panel's report may be considered in determining whether an ADR applicant has satisfied her burden of proving a causal connection between her disability and an alleged work-related accident or incident. *Id.* While the medical panel report is not determinative of the causation issue (because the panel only speaks in terms of medical possibilities), it may be given appropriate weight in sifting the competent evidence of causation on appeal, including evidence of non-work-related causation (if any). *Id.* at 255-56, 670 N.E.2d at 399-400.

b. ADR Based Upon Work-Related Emotional or Psychiatric Injury or Injuries Sustained or Hazard Undergone

A work-related emotional injury, or an injury that is psychiatric in nature, may be a personal injury for purposes of ADR qualification under M.G.L. c. 32, § 7(1) if it meets the definition of "personal injury" recited by the Massachusetts Workers' Compensation Act, M.G.L. c. 152. *Fender v. Contributory Retirement App. Bd.*, 72 Mass. App. Ct. 755, 761, 894 N.E.2d 295, 299 (2008); *Plymouth County Retirement Bd. v. Contributory Retirement Appeal Bd.*, 60 Mass. App. Ct. 114, 118-19, 800 N.E.2d 315, 319 (2003). The Workers' Compensation Act definition states, in pertinent part, that:

Personal injuries shall include mental or emotional disabilities only where the *predominant contributing cause* of such disability is an event or series of events occurring within any employment No mental or emotional disability arising principally out of a bona fide, personnel action including a transfer, promotion, demotion, or termination except such action which is the intentional infliction of emotional harm shall be deemed to be a personal injury within the meaning of this chapter.

M.G.L. c. 151, § 17A) (emphasis added).¹⁰ With the exception of bona fide personnel actions, “[e]motional disability, if caused by employment, is a compensable personal injury under G.L. c. 152.” *Kelly’s Case*, 394 Mass. 684, 686, 477 N.E.2d 582, 583 (1985); *Albanese’s Case*, 378 Mass. 14, 17, 389 N.E.2d 83, 86 (1979).

In both the Workers’ Compensation and ADR contexts, the injury claimed to have caused the emotional or psychiatric disability must be “attributable” to the work-related events in question in order to have arisen out of, or in the course of, employment. *See Plymouth County*, 60 Mass. App. Ct. at 118-19, 800 N.E.2d at 319, *citing Kelly’s Case*, 394 Mass. at 686, 477 N.E.2d at 584-85.¹¹ In addition, the incidents or series of workplace incidents that could give rise to a compensable injury under the Workers’ Compensation Act include an emotional breakdown resulting from “a series of identifiable stressful work-related incidents occurring over a relatively brief period of time” compared with the employee’s length of employment. *Albanese’s Case*, 378 Mass. 14, 18-19, 389 N.E.2d 83, 86 (1979) (steel company working foreman who suffered disabling chronic anxiety and depression as a result of being caught in repeated conflicts between his work crew and his employer during a relatively brief period of time compared with his 20

^{10/} In 1991, the Legislature substituted “predominant” contributing cause for “substantive” contributing cause in the Workers’ Compensation Act as the standard for showing that a work-related injury or injuries had the requisite causal nexus with a claimed emotional or mental injury. *See* St. 1991, c. 398, § 1. The “predominant contributing cause” standard for a claimed emotional or mental work-related injury was prospective in its operation and continues to apply in Workers’ Compensation cases. *See Robinson’s Case*, 416 Mass. 454, 458 n.2, 623 N.E.2d 478, 480 n.2 (1993). It continues to apply in ADR cases as well.

^{11/} *Kelly* resolved the issue in the employee’s favor, holding that an employee of a private firm who suffered an emotional breakdown after being told that she would be laid off from one department and transferred to another, had suffered a compensable personal injury arising out of and in the course of employment, and was therefore entitled to Workers’ Compensation benefits under M.G.L. c. 152.

years of employment suffered a “personal injury arising in the course of employment” that qualified him for compensation under the Workmen’s Compensation Act).

ADR caselaw applies these principles. If the disability was the result of a work-related event or series of events, those events need not necessarily be unique to the ADR claimant’s profession, provided that the incident or incidents were shown to have been the efficient (or predominant) cause of the disability. *Plymouth County*, 60 Mass. App. Ct. at 319; 800 N.E.2d at 119-20.

In *Plymouth County*, a town highway department superintendent suffered a disabling work-related depression following incidents in which members of his highway work crew were insubordinate or uncooperative, police officers refused to follow his directions regarding intersection de-icing, and his work crew failed to abide by his denial of their request to leave a job site during a snowstorm and left him alone to complete the work. The Superior Court had reversed CRAB’s decision awarding ADR to the superintendent. In vacating the Superior Court’s decision and directing that CRAB’s decision be affirmed, the Appeals Court held that CRAB:

reasonably could have determined that the three incidents of such conduct over a two-month period it found to have occurred showed that the superintendent “was indeed working in an employment environment where the authority he needed to perform his job had been so thoroughly eroded as to permit all levels of his subordinate staff to believe that they could engage in behavior that was objectively unreasonable, thereby removing [that] case from the realm of ordinary work stress or conditions common to all or a great many occupations.

Plymouth County, 60 Mass. App. Ct. at 120, 800 N.E.2d at 320.

Proof that these incidents were the efficient cause of the ADR applicant’s disability in *Plymouth County* included the opinion of his treating psychiatrist and an affirmative medical panel opinion as to the possibility that the incidents in question brought on his depression. *Id.*, 60

Mass. App. Ct. at 119-20, 800 N.E.2d at 119-20. As *Plymouth County* points out, the standard applicable to ADR based upon emotional or psychiatric disability is hard to meet.

2. Prerequisites for Emotional or Psychiatric ADR Satisfied Here

As the State Board of Retirement noted in its prehearing memorandum, “the existence and permanence of Ms. Murphy’s disability are not at issue in this case.” The issue presented here is, instead, whether Ms. Murphy sustained a personal injury as the result of a single or a series of work-related events. I conclude from the evidence presented that Ms. Murphy’s ADR application was based upon a series of specific, stressful work-related incidents involving insubordination, uncooperativeness and failure to follow directions by an employee she supervised (D.L.) during a relatively brief period of time in early 2015. The incidents occurred while Ms. Murphy was engaged in performing her duties as supervisor of the interagency scanning and data transformation project at DUA. The evidence also shows that these incidents were the efficient, and predominant, cause of the disabling aggravation of Ms. Murphy’s preexisting depression and PTSD. As a result, she proved her eligibility for ADR based upon a likely-permanent emotional or psychiatric disability resulting from the incidents in question.

*a. Personal Injury or Injuries Sustained, or Hazard Undergone,
at Some Definite Place and Some Definite Time*

I find that Ms. Murphy’s personal injuries occurred between January 2015 and April 2015.

Ms. Murphy filed her ADR application on May 8, 2015. (*See* Finding 25.) In it, Ms. Murphy stated that she had been the target of harassment and bullying at work by two employees she supervised, and that this had occurred during “the past several years.” (Exh. 3 at 5.) Dr. Trutt’s stated, with respect to Ms. Murphy’s ADR application, that she had experienced

“repeated episodes of bullying and harassment from a workplace colleagues (sic) since 2013.”
(Exh. 4 at 3.)

The office emails produced by DUA and EOLWD (Exh. 18) make no mention of any workplace incident prior to October 31, 2013, when Ms. Murphy sent her email to D.L. about keeping food and beverage consumption away from documents the unit was scanning, and refraining from personal cell phone calls that interfered with responding to work-related inquiries (*See Finding 9.*)

The agency emails comprising Exhibit 18 show a potentially-material workplace incident during the period October 31-November 1, 2013 related to D.L. taking personal phone calls during the work day and the disruptive effect this conduct had on the central document processing unit. (*See Findings 8-10.*) However, they show no subsequent occurrence of this conduct in 2013 and no mention of it by Ms. Murphy until late December 2014. In addition, Ms. Murphy did not mention the late-November 2013 occurrence involving D.L., or any related emotional consequence she experienced, to her treating physician at the time, including inability to perform her supervisory duties as a result. (*See Finding 12.*) The October-November 2013 occurrence appears, thus, to have been isolated.

That is not the case with respect to the early 2015 incidents involving D.L. The emails document a related and persisting series of workplace occurrences involving D.L. starting on January 29, 2015, when D.L. made a negative comment to Ms. Murphy about her January 23, 2015 memo concerning the need to maintain cleanliness where documents were being scanned. (*See Finding 15.*) On February 26, 2015, D.L. defied Ms. Murphy’s directive to stop scanning during a test of the software “build” intended to resolve the slow transformation of scanned data into a usable electronic format before resuming full document scanning. (*See Finding 17.*) In

proceeding with full scanning with testing, D.L. not only defied Ms. Murphy's supervision, but also imperiled the integrity of the "build" and, as a result, the integrity of the agency's electronic database.

This defiant conduct persisted, and this was documented contemporaneously over the next several weeks in Ms. Murphy's email exchanges with her supervisor and the Executive Office's Labor Relations Director. (*See* Findings 15-17, 19 and 20-21.) Specifically, D.L.'s insubordinate, uncooperative, and noncompliant conduct continued through March 31, 2015, when D.L. made derogatory comments about Ms. Murphy "eating dog food" for a snack, which Ms. Murphy reported to Ms. Quersher by email on the same day. (*See* Finding 21.) In that email, Ms. Murphy also stated that she was experiencing an emotional health crisis as the result of D.L.'s derogatory comments and workplace conduct and was looking into leave under the federal FMLA. (*Id.*)

Ms. Murphy then reported these workplace incidents to Dr. Trutt on May 6, 2015, shortly after she stopped working, as having caused her to experience revived feelings leftover from her prior abusive marriage that were causing her to experience depression and panic attacks, and to feel that she could not carry out her supervisory duties in the DUA central document scanning unit. (*See* Finding 24.) Ms. Murphy advised Ms. Quersher, the Labor Relations Director, similarly throughout April 2015. On March 5, 2015, Ms. Murphy told her supervisor, Ms. Arroyo-Barrows, and Ms. Quersher, that she had suffered a "meltdown," especially when D.L. disregarded her directive not to scan documents other than those that were selected to test the software "build." (*See* Findings 17 and 19.)

Based on the evidence in the record, I determine that the workplace incidents related to Ms. Murphy's emotional or psychiatric disability occurred from January 29, 2015 through March

31, 2015. This is a narrower time frame than what Ms. Murphy claimed originally and that Dr. Trutt thought was applicable (2013 and after), but the shorter time frame falls within the broader time frame Ms. Murphy's ADR application identified. The narrower time period of January 29, 2015 through March 31, 2015 is also well within two years preceding the ADR application.

b. Efficient and Predominant Contributing Cause of Claimed Disability

I further find that the January-March 2015 incidents were the efficient and predominant contributing cause of Ms. Murphy's disability.

The emails document insubordinate, uncooperative and defiant conduct on D.L.'s part during the period January 29, 2015 through March 31, 2015 in DUA's central document processing unit. It occurred while Ms. Murphy was performing her work duties as supervisor of the interagency scanning and data transformation project. It thwarted her effective supervision of the project and caused her to lose confidence in her ability to perform her work duties as project supervisor. The office emails comprising Exhibit 18 confirm that the incidents Ms. Murphy asserted had occurred during this time period while she was performing her duties as the interagency project supervisor in the project's work site at DUA—in other words, at a definite place and time.

The emails also corroborate Ms. Murphy's testimony about what happened to her as a result of these workplace incidents, starting in late January 2015. She recorded the incidents and their impact upon her in the emails she exchanged contemporaneously with her supervisor and the Secretariat's labor relations director. These emails supply a chronology of the incidents and their impact upon Ms. Murphy and her workplace that she could no longer present independently when she testified here, making it possible to discern the specific time, specific place, identifiable condition and effective causation of injury that M.G.L. c. 32, § 7(1) required to

qualify an applicant for ADR. These details are not rebutted by testimony or competent documentary evidence.

The emails show that D.L.'s defiance of Ms. Murphy's February 26, 2015 directive particularly impacted Ms. Murphy's emotional state adversely. This behavior undermined Ms. Murphy's supervisory authority relative to this important interagency data transformation project and endangered the project's integrity. After this behavior occurred, Ms. Murphy progressed relatively quickly to an emotional breakdown in reaction to D.L.'s workplace conduct in early 2015, and then to an emotional or psychiatric disability that prevented her from performing the duties of her job, likely permanently, as of late April or early May 2015. All of this is documented sufficiently in the 2015 office emails included in Exhibit 18, and none of this documentation is rebutted.

In sum, D.L.'s workplace conduct in early 2015, including ignoring Ms. Murphy's "build" test directive on February 26, 2015: (1) occurred while Ms. Murphy was performing her duties as supervisor of the interagency data transformation project; (2) posed a serious threat to the interagency project, to document integrity and to the success of document scanning; (3) and undercut, in a material way, her effective supervision of the interagency project.

D.L.'s conduct also affected Ms. Murphy's emotional and psychiatric condition adversely, and within a very short time after the incidents in question occurred. The rapid onset of Ms. Murphy's disabling depression and PTSD was apparent to the psychiatric medical panel members based upon the materials they reviewed in late 2015, and their examination of Ms. Murphy. They issued a unanimous opinion that she was incapacitated from performing her work duties, likely permanently; the conduct in question had aggravated Ms. Murphy's preexisting, marriage-related depression and PTSD; and this aggravation, and the emotional/psychiatric

disability that followed, was “such as might be the natural and proximate result of the accident or hazard upon which the retirement application is based.” The panel’s opinion was supported by Dr. Sherry’s explanatory report. The opinion and report were “some evidence” that the events in question were causative of Ms. Murphy’s likely-permanent disability, and are entitled to at least some weight in determining that the early 2015 incidents in question were the efficient and predominating cause of Ms. Murphy’s disability.

The evidence also shows that the workplace incidents involving D.L. in early 2015 were not independent or isolated events, or reflective of mere interpersonal conflicts. Instead, Ms. Murphy’s emotional breakdown occurred relatively quickly in response to D.L.’s workplace conduct in early 2015, particularly the incident involving D.L.’s defiance of her order to test the software “build” before resuming full document scanning into the electronic database.

Conclusion

I conclude that Ms. Murphy proved her eligibility for accidental disability retirement based upon a series of incidents in the workplace during a specific time (January 29, 2015 through March 31, 2015) and at a specific place—the area of DUA’s Boston office where Ms. Murphy was supervising the interagency scanning and data transformation project. During those incidents, D.L., a member of her project staff, was insubordinate and uncooperative and refused to follow her instructions to avoid consuming food and beverages where documents were being scanned in order to protect the documents and the scanning equipment; and to test an electronic database software rebuild, by scanning only a few documents, before resuming full scanning. She also made derogatory comments to Ms. Murphy at the end of March 2015 that were nothing but defiant and demoralizing.

The material, persuasive and unrefuted evidence includes (1) Ms. Murphy's medical records; (2) her job description and performance reviews; (3) her ADR application; (4) the medical panel's unanimous affirmative opinion and Dr. Sherry's supporting report; (5) Ms. Murphy's credible hearing testimony; and (6) the contemporaneous interoffice emails she exchanged with her own supervisor and the Labor and Workforce Development Secretariat's Labor Relations Director regarding the incidents involving the interagency project staff member. There was no competing testimony, and there was no competent evidence of non-work-related causation of her disability. The evidence supports the conclusion that the workplace incidents that occurred between January 29, 2015 and March 31, 2015 were the efficient, and predominating, cause of the disabling aggravation of her depression and PTSD that left Ms. Murphy unable to continue working. As a result, Ms. Murphy's injury was compensable under M.G.L. c. 32, § 7(1).¹²

Disposition

For the reasons stated above, the State Board of Retirement's denial of Ms. Murphy's ADR application is reversed. The Board shall compute (a) the amount of ADR benefits Ms. Murphy is due retroactive to April 29, 2016, the date from which the Board began paying her an ordinary disability retirement benefit, less credit for the amount of ordinary disability and any other retirement benefits paid to her; and (b) the monthly ADR benefits to be paid to Ms. Murphy going forward.

^{12/} In view of this conclusion and the outcome here, it is unnecessary to draw the adverse inference regarding the belated production by DUA and EOLWD of Ms. Murphy's 2013-15 emails, or the non-production of the notebook she testified to having kept at her office that I suggested in my June 23, 2023 order. *See* above at 8-9.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

/s/ Mark L. Silverstein

Mark L. Silverstein
Administrative Magistrate

Dated: March 7, 2025