

**COMMONWEALTH OF MASSACHUSETTS**

**Middlesex, ss.**

**Division of Administrative Law Appeals**

**Donna Pugsley,**  
Petitioner,

Docket No.: CR-25-0337

v.

**State Board of Retirement,**  
Respondent.

**Appearances:**

Donna Pugsley, pro se

For Respondent: Matthew Szafranski, Esq.

**Administrative Magistrate:**

Yakov Malkiel

**SUMMARY OF DECISION**

The petitioner worked as a special education paraprofessional. The constant or near-constant stresses of her job caused her to sustain a disabling case of stress-induced cardiomyopathy. But the limited record presented does not establish that the stresses of the petitioner's job were "uncommon" enough to qualify her for accidental disability retirement under G.L. c. 32, § 7.

**DECISION**

Petitioner Donna Pugsley appeals from a decision of the State Board of Retirement (board) denying her application to retire for accidental disability. Ms. Pugsley waived her right to an evidentiary hearing and asked for the case to be decided based on written submissions. See 801 C.M.R. § 1.01(10)(c). She declined to change her mind or to supplement her papers in response to two orders emphasizing that she bears the burden of proof on the elements of her claim. I now admit into evidence exhibits marked 1-18.

### **Findings of Fact**

The following findings are based on the limited record presented.

1. Ms. Pugsley worked as a special education paraprofessional in Plymouth. She took the job in 2008. She helped teachers in the classroom and instructed students on appropriate behaviors and practical skills. (Exhibits 7, 11, 15.)
2. Ms. Pugsley's students exhibited a mix of special educational needs and mental health issues. Ms. Pugsley witnessed and dealt with students' outbursts, harsh comments, and anxious movements, such as fist clenching and fidgeting. She found her job to be stressful on a day-to-day basis. (Exhibit 11.)
3. After approximately three years of teaching, i.e., in about 2011, Ms. Pugsley suffered from and was treated for stress-induced cardiomyopathy, also known as Takotsubo syndrome. That condition involves reduced heart function and can lead to death. Medical records described Ms. Pugsley's symptoms and hospitalization as relating to "a stressful personal situation." She was able to return to work without limitations. (Exhibit 12.)
4. Ten years later, in early 2021, Ms. Pugsley found out that a former student of the school had been charged with the murder of his parents. A few weeks after that, on the afternoon of February 16, 2021, Ms. Pugsley was admitted to the hospital with chest pain. She was again diagnosed with stress-induced cardiomyopathy. She was treated with aspirin and other medications before being released. (Exhibits 6, 10, 12, 13.)
5. Ms. Pugsley was placed on medical leave for approximately four months. During that time, she underwent an outpatient cardiovascular rehabilitation program. She has not returned to work since. (Exhibits 11, 15.)

6. On June 29, 2021, Ms. Pugsley filed an application to retire for accidental disability. She checked a box on her preprinted form to categorize the application as based on a “hazard,” which the form described as “exposure to a harmful situation over a period of time.” Ms. Pugsley identified the dates of her hazard as “December 2008-February 2021,” i.e., the full span of her public employment. She wrote that the hazard occurred “5 days a week” and consisted of “physical and emotional stress.” (Exhibit 11.)

7. On the same day, Ms. Pugsley filed a notice-of-injury form with the board. She described the cause of her injury as: “Accumulation of emotional or physical stress while working with [students] who are socially, emotionally, and physically disabled.” Two years later, in June 2023, Ms. Pugsley filed another version of her notice-of-injury form; she repeated her original statement, adding: “Hearing the news that a former student of our school program . . . murdered both his parents . . . .” (Exhibits 13, 14.)

8. In June 2024, a regional medical panel convened to evaluate Ms. Pugsley’s application. The panel consisted of cardiologist Dr. Christopher Clyne, cardiologist Dr. Michael Johnstone, and internist Dr. Richard Ashburn. After conducting separate physical examinations, the panelists all certified that Ms. Pugsley is incapacitated, that the incapacity is permanent, and that it is “such as might be” the result of Ms. Pugsley’s workplace experiences. (Exhibit 9.)

9. Each panelist diagnosed Ms. Pugsley with stress-induced cardiomyopathy. Each panelist believed that a return to work would place Ms. Pugsley at risk of heart failure. In terms of causation, the panelists’ reports connected Ms. Pugsley’s condition more to her longstanding experience than to any specific incident. Dr. Clyne wrote: “It is my opinion that the conditions and job duties at [the school] are directly responsible.” The other two panelists did not offer

explicit analyses of causation; but they used instructive phrasing elsewhere in their reports: Dr. Ashburn highlighted Ms. Pugsley’s “episodes of [cardiomyopathy] in . . . [a] stressful work environment,” and Dr. Johnstone spoke similarly of Ms. Pugsley’s “stressful situation at work.” (Exhibit 9.)

10. In February 2025, the board voted to allow Ms. Pugsley’s application. But the Public Employee Retirement Administration Commission withheld its own approval and remanded, explaining that it saw no causal link between Ms. Pugsley’s condition and a work-related “injury” or “hazard.” The board then denied Ms. Pugsley’s application, prompting this timely appeal. (Exhibits 1-4.)<sup>1</sup>

### Analysis

An applicant for accidental disability retirement must show that she “is unable to perform the essential duties of [her] job,” that the disability “is likely to be permanent,” and that the disability was caused by a “personal injury . . . sustained or hazard undergone as a result of, and while in the performance of, [the applicant’s] duties at some definite place and at some definite time.” G.L. c. 32, § 7(1). The dispute in this case focuses on the third element, i.e., causation.

The record offers substantial support for the theory that Ms. Pugsley’s disability was caused, not by “a single work-related event or series of events,” *Blanchette v. Contributory Ret. Appeal Bd.*, 20 Mass. App. Ct. 479, 485 (1985), but by a constant or near-constant aspect of her

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<sup>1</sup> It does not appear that Ms. Pugsley has pursued ordinary disability retirement under G.L. c. 32, § 6, the availability of which depends in part on the duration of the member’s creditable service.

job: namely, the stresses that flowed from the traumas and misbehaviors of Ms. Pugsley's students. A theory based on such an "identifiable [workplace] condition" may be viable, but only if the condition was "not common and necessary to all or a great many occupations." *Id.* This rule attempts to distinguish the special risks that accidental disability retirement is designed to alleviate from the more routine issues "which should more properly be covered by personal health insurance." *Adams v. Contributory Ret. Appeal Bd.*, 414 Mass. 360, 366 (1993).

Even serious emotional tribulations are not always "uncommon" enough to count as qualifying "hazards." In *Blanchette*, the Appeals Court hypothesized that it may be sufficient for a member to have endured "constant exposure to life threatening situations or to continual traumatic or depressing events." 20 Mass. App. Ct. at 487 n.7. But subsequent opinions have ascribed disqualifying commonness to other types of "stress caused by job pressures." *Fender v. Contributory Ret. Appeal Bd.*, 72 Mass. App. Ct. 755, 761 (2008). *See also Sugrue v. Contributory Ret. Appeal Bd.*, 45 Mass. App. Ct. 1, 6 (1998). In perhaps the most on-point binding precedent, the Contributory Retirement Appeal Board held that exposure to testimony about traumatic violent crimes is a feature of too many jobs to count as "uncommon." *Morse v. State Bd. of Ret.*, No. CR-13-491, 2016 WL 11956851 (Contributory Ret. App. Bd. Aug. 1, 2016), *aff'd*, No. 16-3963 (Suffolk Super. Apr. 20, 2018), *aff'd*, 96 Mass. App. Ct. 1114 (2019).

In Ms. Pugsley's case, the pivotal question is not whether her professional experience caused her disability; it is whether that experience was "uncommon." It was Ms. Pugsley's burden to prove the particular features of her workplace stressors that differentiated them from the pressures prevalent in many other lines of work. *See Lisbon v. Contributory Ret. Appeal Bd.*, 41 Mass. App. Ct. 246, 255 (1996). On the limited record presented, Ms. Pugsley

has not carried that burden. Her students' uncooperative tendencies and palpable anxieties do not necessarily appear to have differed in magnitude from the behaviors encountered by professionals in many occupations. See *Jessica J. v. Massachusetts Teachers' Ret. Syst.*, CR-20-0288, 2022 WL 18673981, at \*5 (Div. Admin. Law App. Jun 3, 2022). And Ms. Pugsley appears to have been exposed to her students' traumas only indirectly, through their reactions, making the case roughly analogous to *Morse, supra*. It remains as likely as not that Ms. Pugsley's job was upsetting and anxiety-producing only in ways shared by many other lines of work.

It is not clear from Ms. Pugsley's papers whether she attributes her incapacity in the alternative to "a single work-related event," *Blanchette*, 20 Mass. App. Ct. at 485, i.e., to her receipt of the news that a former student had been charged with murder.<sup>2</sup> Regardless, that theory would be unsuccessful. Ms. Pugsley may or may not have adequately presented a single-event-based claim to the board. See *Zajac v. State Bd. of Ret.*, No. CR-12-444, 2015 WL 14085625, at \*2 (Contributory Ret. App. Bd. Aug. 21, 2015), *aff'd*, No. 1579-00660 (Hampden Super. Aug. 8, 2016). There is no record evidence on whether she was performing identifiable duties of her job when she heard the news about the former student. See *Damiano v. Contributory Ret. Appeal Bd.*, 72 Mass. App. Ct. 259 (2008). And no causal connection between Ms. Pugsley's disability and any specific incident is established by a preponderance of the record evidence, including the medical panelists' reports. See *Lisbon*, 41 Mass. App. Ct. at 255.

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<sup>2</sup> A member pursuing a single-event-or-series-of-events theory is not required to show that the event or events were uncommon. See *Blanchette*, 20 Mass. App. Ct. at 485 n.4; *Steinberg v. State Bd. of Ret.*, No. CR-08-171 (Contributory Ret. App. Bd. Mar. 3, 2011).

**Conclusion and Order**

Injurious constant or near-constant workplace conditions make public employees eligible for accidental disability retirement only in cases of “uncommon” hazards. On the record presented, Ms. Pugsley’s case does not satisfy that rule. The board’s decision is therefore AFFIRMED.

Dated: January 2, 2026

/s/ Yakov Malkiel

Yakov Malkiel

Administrative Magistrate

DIVISION OF ADMINISTRATIVE LAW APPEALS

14 Summer Street, 4th floor

Malden, MA 02148

Tel: (781) 397-4700

[www.mass.gov/dala](http://www.mass.gov/dala)