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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-4548-15T1

JOHN WALTERS,

Petitioner-Appellant,

v.

BOARD OF TRUSTEES,
PUBLIC EMPLOYEES'
RETIREMENT SYSTEM,

Respondent-Respondent.

Submitted July 12, 2017 – Decided July 26, 2017

Before Judges Simonelli and Carroll.

On appeal from the Board of Trustees, Public
Employees' Retirement System, PERS No.
2-10-290504.

Margolis Edelstein, attorneys for appellant
(Michael R. Miller, on the brief).

Christopher S. Porrino, Attorney General,
attorney for respondent (Melissa Dutton
Schaffer, Assistant Attorney General, of
counsel; George E. Loeser, Deputy Attorney
General, on the brief).

PER CURIAM

Petitioner John Walters appeals from a May 3, 2016 decision
of the Board of Trustees (Board) of the Public Employees'

Retirement System (PERS). The Board adopted an Initial Decision issued by Administrative Law Judge (ALJ) Edward J. Delanoy, Jr., recommending that the Board deny petitioner's application for accidental disability retirement benefits because he failed to prove that the event that caused his injuries occurred during and as a result of his regular or assigned duties. Having reviewed the record, we find the Board's decision is supported by substantial credible evidence. R. 2:11-3(e)(1)(D). We affirm substantially for the reasons stated by ALJ Delanoy in his thoughtful written opinion.

The facts are essentially undisputed and are succinctly summarized in the ALJ's Initial Decision as follows:

[Petitioner] was employed by the New Jersey Department of Corrections for fifteen years as a Senior Corrections Officer. On January 5, 2014, he was so employed at the Edna Mahon Correctional Facility for Women ("Facility"), but this was a day off for petitioner. He was contacted by his superiors and asked if he wanted to work overtime. He accepted the offer to work on the 10:00 p.m. to 6:00 a.m. shift.

On the night in question, [petitioner] put on his uniform, traveled to work and arrived at the Facility at approximately 9:40 a.m. He arrived early because the weather was bad, and because he wanted to allow himself the extra time to fill out required overtime paperwork and get to his post. In order to get to his parking area, [petitioner] was required to stop at a security gate manned by an armed guard. [Petitioner] produced his

identification card and proceeded to the parking area. The security gate closed behind him. Once beyond the security gate, [petitioner] was expected to report immediately to any emergency code that might thereafter occur, even though he was not yet at this post. Because he was on overtime, [petitioner] could not proceed directly to his post as he would normally do. Instead, [petitioner] was required to report to Thompson Hall to fill out overtime paperwork before he could report to his post and begin his shift.

[Petitioner] parked his car and opened his driver's side door to exit. [Petitioner] took one step, slipped on some ice, and fell to the ground. [Petitioner] was transferred to the hospital by ambulance, and never made it to his post that evening. Petitioner was not undertaking any of his normal duties of a corrections officer when he fell. A Department of Corrections Investigative Report set forth that the incident occurred prior to third shift. [] [Petitioner] began to be paid only after his shift began at 10:00 p.m., and was not paid for the preliminary duties he performed prior to the official start of his shift.

In his legal analysis, the ALJ noted that, pursuant to N.J.S.A. 43:15A-43, a member of the PERS may be retired on an accidental disability pension if the member "is permanently and totally disabled as a direct result of a traumatic event occurring during and as a result of the performance of his regular or assigned duties[.]" In Richardson v. Board of Trustees, Police & Firemen's Retirement System, 192 N.J. 189, 212-13 (2007), the Supreme Court held that in order to qualify for accidental

disability retirement benefits, a member of the retirement system must establish:

1. that he is permanently and totally disabled;
2. as a direct result of a traumatic event that is
 - a. identifiable as to time and place,
 - b. undesigned and unexpected, and
 - c. caused by a circumstance external to the member (not the result of pre-existing disease that is aggravated or accelerated by the work);
3. that the traumatic event occurred during and as a result of the member's regular or assigned duties;
4. that the disability was not the result of the member's willful negligence; and
5. that the member is mentally or physically incapacitated from performing his usual or any other duty.

The ALJ determined petitioner was still in the process of commuting at the time of his accident. Citing Kasper v. Board of Trustees, Teachers' Pension & Annuity Fund, 164 N.J. 564 (2000), the ALJ concluded that "[petitioner] had done nothing more than park his vehicle, and he was not engaged in his regular or assigned duties, nor was he actively preparing for his regular or assigned duties. Thus, the injury was not causally connected to his work."

The Board adopted the ALJ's decision and denied petitioner's application for accidental disability retirement benefits. This appeal followed.

The standard of review that applies in an appeal from a state agency decision is well established. "Judicial review of an agency's final decision is generally limited to a determination of whether the decision is arbitrary, capricious, or unreasonable or lacks fair support in the record." Caminiti v. Bd. of Trs., 431 N.J. Super. 1, 14 (App. Div. 2013) (citing Hemsey v. Bd. of Trs., Police & Firemen's Ret. Sys., 198 N.J. 215, 223 (2009)). In reviewing an administrative decision, we ordinarily recognize the agency's expertise in its particular field. Ibid. We are not bound by an agency's statutory interpretation or other legal determinations. Russo v. Bd. of Trs., Police & Firemen's Ret. Sys., 206 N.J. 14, 27 (2011).

After reviewing the record in light of the applicable standard of review, we find no basis to disturb the Board's decision. See Mazza v. Bd. of Trs., Police & Firemen's Ret. Sys., 143 N.J. 22, 25 (1995). On appeal, petitioner argues that the Board erred in disqualifying him on the sole basis that the event that led to his injuries did not occur as a result of his regular or assigned duties. We disagree. Petitioner's appellate contentions are

without sufficient merit to warrant further discussion. R. 2:11-
3(e)(1)(E).

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.



CLERK OF THE APPELLATE DIVISION