

APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK, FIRST DEPARTMENT

Matter of Rubenstein v Metropolitan Transportation Authority

2016 NY Slip Op 08160 (N.Y. Ct. App. 2016) (Appellate Division of the Supreme Court of the State of New York First Department 2016) · No. 2373 · Decided December 6, 2016

SUMMARY

The Appellate Division, First Department, affirmed the denial of Scott A. Rubenstein's petition to annul the Metropolitan Transportation Authority's determination denying accidental disability retirement benefits. The court held that the proceeding did not require substantial-evidence review and that the MTA rationally determined that Rubenstein's injuries, sustained before his tour began in an MTA Police Department parking lot, were not incurred while he was in service.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, First Department
WRITING FOR THE COURT	Renwick, J.P.; Saxe, J.; Gische, J.; Webber, J.
JURISDICTION	New York
DECIDED	December 6, 2016
DOCKET	2373
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner appealed from a judgment of Supreme Court, New York County, denying his CPLR article 78 petition to annul the respondents' determination denying his application for accidental disability retirement and dismissing the proceeding.
STANDARD OF REVIEW	Whether the administrative determination was arbitrary and capricious, an abuse of discretion, or affected by an error of law; substantial-evidence review under CPLR 7803(3) was not implicated because the hearing was neither transcribed nor recorded and there were no material factual disputes.
PRECEDENTIAL VALUE	Published New York Appellate Division decision
PARTIES	Scott A. Rubenstein v. Metropolitan Transportation Authority, et al.

TOPICS

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QUESTIONS PRESENTED

1. Whether Supreme Court should have transferred the CPLR article 78 proceeding for substantial-evidence review under CPLR 7804(g).
2. Whether respondents acted arbitrarily, abused their discretion, or committed an error of law in determining that petitioner's injuries were not sustained while he was "in service" and therefore did not qualify him for accidental disability retirement.

HOLDINGS

1. Transfer under CPLR 7804(g) was not required because the hearing before the hearing officer was not transcribed or recorded and therefore was not a quasi-judicial hearing implicating substantial-evidence review. In addition, no material factual disputes existed.
2. Respondents rationally determined that petitioner's injuries were not sustained while he was "in service" because they occurred thirty minutes before his tour was to begin, before he commenced his duties, in the MTA Police Department parking lot. The determination was therefore not arbitrary and capricious.

KEY QUOTATIONS

"The only question presented in the court below was whether, based on the uncontested facts, respondents acted arbitrarily, abused their discretion, or committed an error of law, in concluding that petitioner's injuries were not sustained while he was "in service," and thus that he did not qualify for accidental disability retirement." ([*1])

"Accordingly, the court below correctly found that respondents' determination was not arbitrary and capricious" ([*2])

FACTUAL BACKGROUND

Rubenstein, a member of the MTA Police Department, was injured in an MTA Police Department parking lot approximately thirty minutes before his tour of duty was scheduled to begin and before he had commenced his duties. He applied for accidental disability retirement, but respondents determined that the injuries were not sustained while he was "in service." The material facts concerning the nature, circumstances, and causation of the injuries were uncontested.

PROCEDURAL HISTORY

Supreme Court, New York County, denied the petition and dismissed the CPLR article 78 proceeding. The Appellate Division unanimously affirmed, without costs, and held that Supreme Court properly declined to transfer the proceeding under CPLR 7804(g).

DISPOSITION

affirmed

CASES CITED

- Matter of Milt-Nik Land Corp. v. City of Yonkers, 24 AD3d 446, 447 (2d Dep't 2005)
- Matter of Rosenkrantz v. McMickens, 131 AD2d 389 (1987)
- Matter of Cantello v. Regan, 154 AD2d 867 (3d Dep't 1989)
- Matter of Okon v. Regan, 185 AD2d 438 (3d Dep't 1992)
- Matter of De Zago v. New York State Police & Fireman's Retirement Sys., 157 AD2d 957 (3d Dep't 1990)
- Matter of Pell v. Board of Educ. of Union Free School Dist. No. 1 of Towns of Scarsdale & Mamaroneck, Westchester County, 34 NY2d 222, 231 (1974)

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