SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-3352-20

TAMELA EAKINS,

Petitioner-Appellant,

v.

BOARD OF TRUSTEES OF THE TEACHERS' PENSION AND ANNUITY FUND,

Respondent-Respondent.

Argued November 7, 2022 — Decided November 18, 2022

Before Judges Whipple, Mawla, and Marczyk.

On appeal from the Board of Trustees of the Teachers' Pension and Annuity Fund, Department of the Treasury, TPAF No. 170533.

Samuel M. Gaylord argued the cause for appellant (Szaferman Lakind Blumstein & Blader, attorneys; Samuel M. Gaylord, on the brief).

Matthew Melton, Deputy Attorney General, argued the cause for respondent (Matthew J. Platkin, Attorney General, attorney; Donna Arons, Assistant Attorney General, of counsel; Matthew Melton, on the brief).

PER CURIAM

Appellant Tamela Eakins appeals from a June 9, 2021 final agency decision by respondent Board of Trustees, Teachers' Pension & Annuity Fund (Board), denying her accidental disability pension benefits. We affirm.

This matter was adjudicated before an administrative law judge (ALJ), and appellant was the sole witness to testify. Appellant was employed by the Monroe Township Board of Education (BOE) as a special education teacher at a high school for over fourteen years. She taught six eleventh-grade classes per day and was assigned to help students with special needs. Appellant testified she typically experienced disruptive students in her work and was trained to handle these situations, but not formally trained on how to "diffuse situations" or "break up fights . . . ." The BOE job description for teachers requires them to: "Assist[] in upholding and enforcing school rules, administrative regulations, and Board policy[;]" "[a]ssist[] students to set and maintain standards and follow acceptable rules of behavior[;]" and "[t]ake[] necessary and reasonable precautions to protect students . . . ."

Appellant recalled she had "seen it all[,]" describing situations involving upset students who have cursed at teachers or other students, thrown chairs, or engaged in fights. She testified she "had a reputation for being able to pretty

much handle anything" because she was firm with students in the beginning of the year and eased up as the school year progressed.

The underlying incident occurred in a language arts class conducted by another teacher. Appellant shared the classroom and provided support for twelve special needs children, representing approximately one-half of the class. She testified this was a somewhat unique class for her because there were many students with a history of disruptive and disrespectful behaviors, high absentee rates, and poor classroom performance.

Appellant and her co-teacher repeatedly informed superiors the classroom phone did not work. They made several requests to repair the phone so they could summon help from the main office if the class became unruly. Appellant felt the phone was necessary because a student previously brought a gun to the school and because of the prevalence of school shootings. The phone was not repaired prior to the incident.

The incident began when a student, who had a medium-frame and stood five-feet eleven-inches tall, became restless and blurted out: "This is stupid, I'm not doing this, this is ridiculous."[1] Appellant asked the student to go out into

[1] The student did not have special needs but was placed in the classroom due to past behavioral issues.

the hallway so he could calm down. He continued ranting, stating: "This is ridiculous" and appellant and her co-worker were "[b]ad teachers" until he and appellant were arguing in the hallway. Assuming the student was just venting, appellant told him to remain in the hallway until he calmed down.

Appellant returned to the classroom and the other teacher went into the hallway to talk to the student. Appellant then heard him yelling profanities at the teacher and observed him follow her back into the classroom. The student stood in the doorway, raised his voice, and repeatedly told both teachers they were bad teachers and ridiculed the co-teacher for her weight. Both teachers asked the student to move out of the doorway, but he refused, challenging them to "make him move" and saying he was not going "any [fucking] where."

Appellant testified the student "stood there like he was ready to do something, like he was just waiting for us to say or do anything or one more thing and he was going to attack[,]" and she "really felt like the attack was going to be him reaching in his pocket and grabbing something." She was afraid the student had a gun and was going to shoot the class, beginning with the teachers. Appellant testified her fears were heightened by the fact the student blocked the exit and the phone was not working.

Eventually, the student started to move towards the co-teacher, which allowed appellant to exit the room and use the phone in the neighboring classroom to summon help. Two vice-principals arrived, and the student began yelling profanities at them before they got him to leave, ending the incident.

Appellant was pulled from her duties for the rest of the day. She claimed one vice-principal feared the student and stated: "He was some type of psychopath but because of his age he could not be labeled as a psychopath." The vice-principal noted the student previously had an incident with her and the principal, who was also "frightened by this kid because they've never met anybody like him[]" and "[h]e looks through you as if you're not there and like he could just cut your throat and think nothing of it."

Appellant conceded the student never threatened her, the other teacher, or any of his classmates, and no weapon was found on him. However, the incident affected the class "so much so that . . . the next day we had to sit down and talk with the students because they had a million questions[,] and the kids were in a position trying to figure out what they were going to do if he pulled out a weapon." This incident was different because there was no "trigger" that typically precedes a student acting out in class. Appellant explained:

> [I]t was the fact that he was methodical with the way that he said it. . . . [H]e intentionally made sure that he looked us in the eye when he spoke with us.
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> . . . [O]ne minute he would talk real soft to us and then . . . his voice would elevate and then it would come right back down as if nothing ever happened but he was still insulting us the whole time.
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> And then it was the main fact that he stood in that doorway and refused to move and then told us to make him move as if . . . waiting for us to make a move so then he could do whatever it is he was going to do.
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> I've never had a student do that before. . . . I've sent students to the [vice-principal]'s office plenty of times and, yes, they'll . . . fuss and complain, some of them will curse at you, some of them might even knock over a chair on their way out of the room.

Appellant resumed working for another month before retiring. During this time, the student was placed in an afternoon program. Appellant testified this allowed for the possibility for her to see him in the halls on two separate occasions, which contributed to her decision to retire. She was worried he might "do something to [her] car" if he knew where she lived, or she was "going to be followed because [she] did run into him."

Appellant applied for accidental disability retirement benefits, claiming she developed "major depression and anxiety" following the incident, which the Board denied. At appellant's request, the ALJ heard testimony to determine if

the incident met the "traumatic event threshold" set forth in Richardson v. Board of Trustees, Police and Firemen's Retirement System, 192 N.J. 189, 212-13 (2007). If appellant met the threshold, she would then present physician testimony to establish whether she was "physically or mentally incapacitated[,]" under N.J.S.A. 18A:66-39(c), to warrant accidental disability benefits.

The ALJ found appellant's testimony "credible and persuasive" and "no real dispute as to [her] account of the incident . . . ." However, he concluded

> [she] has not proven that she personally experienced an event that was "undesigned and unexpected" as required by Patterson[v. Board of Trustees, State Police Retirement System, 194 N.J. 29, 48 (2008),] and Russo[v. Board of Trustees, Police and Firemen's Retirement System, 206 N.J. 14, 27 (2011)]. [She] has not established that the traumatic event . . . is objectively capable of causing a reasonable person in similar circumstances to suffer a disabling physical or mental injury. There is no justification for concluding that this was a terrifying or horror-inducing event. The event was not objectively capable of causing a reasonable special education teacher with training and experience similar to . . . [appellant] to suffer a disabling mental injury.
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> . . . .
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> Turning to the Richardson factors, . . . I conclude that the situation where a special education teenage student exhibits unruly, loud, obnoxious, and offensive behavior is not out of the ordinary course of events and could not be unexpected. Likewise, it should be understood, if not expected, that the teacher of such a

> special education teenage student may be called upon to participate in defusing such situations.

The Board adopted the ALJ's initial decision and affirmed the denial of the application for accidental disability retirement benefits.

I.

We "have 'a limited role' in the review of [agency] decisions." In re Stallworth, 208 N.J. 182, 194 (2011) (quoting Henry v. Rahway State Prison, 81 N.J. 571, 579 (1980)). "[A] 'strong presumption of reasonableness attaches to [an agency decision].'" In re Carroll, 339 N.J. Super. 429, 437 (App. Div. 2001) (quoting In re Vey, 272 N.J. Super. 199, 205 (App. Div. 1993), aff'd, 135 N.J. 306 (1994)). "In order to reverse an agency's judgment, [we] must find the agency's decision to be 'arbitrary, capricious, or unreasonable, or . . . not supported by substantial credible evidence in the record as a whole.'" Stallworth, 208 N.J. at 194 (quoting Henry, 81 N.J. at 579-80).

We "may not substitute [our] own judgment for the agency's, even though [we] might have reached a different result." Ibid. (quoting In re Carter, 191 N.J. 474, 483 (2007)). "It is settled that [a]n administrative agency's interpretation of statutes and regulations within its implementing and enforcing responsibility is ordinarily entitled to our deference." E.S. v. Div. of Med. Assistance & Health Servs., 412 N.J. Super. 340, 355 (App. Div. 2010) (alteration in original)

(quoting Wnuck v. N.J. Div. of Motor Vehicles, 337 N.J. Super. 52, 56 (App. Div. 2001) (internal quotations omitted)). "[W]e are not bound by the agency's legal opinions." A.B. v. Div. of Med. Assistance & Health Servs., 407 N.J. Super. 330, 340 (App. Div. 2009) (quoting Levine v. State, Dep't of Transp., Div. of Motor Vehicles, 338 N.J. Super. 28, 32 (App. Div. 2001)). "Statutory and regulatory construction is a purely legal issue subject to de novo review." Ibid. (citing Mayflower Sec. Co. v. Bureau of Sec., 64 N.J. 85, 93 (1973)).

II.

Appellant challenges the Board's finding that her disability did not meet the Patterson standard. She contends the incident constituted a terrifying or horror-inducing event, which was undesigned and unexpected. Like Moran v. Board of Trustees, Police & Firemen's Retirement System, 438 N.J. Super. 346 (App. Div. 2014), and Brooks v. Board of Trustees, 425 N.J. Super. 277 (App. Div. 2012), appellant argues the Board should have viewed the facts through a broader lens and granted her accidental disability retirement benefits.

In Patterson, our Supreme Court held a mental disability resulting from a traumatic event may qualify an applicant for accidental disability retirement benefits. 194 N.J. at 33-34. "The disability must result from direct personal experience of a terrifying or horror-inducing event that involves actual or

threatened death or serious injury, or a similarly serious threat to the physical integrity of the member or another person." Id. at 34. An example of a qualifying event includes "a teacher who is held hostage by a student . . . ." Id. at 50. "[A] qualifying traumatic event is, in itself, objectively capable of causing a reasonable person to suffer permanent mental injury." Russo, 206 N.J. at 18-19.

Pursuant to these principles, we are unconvinced the Board's ruling was reversible error. The underlying incident did not meet the Patterson standard because the student never threatened appellant or anyone else in the classroom with harm, and there was no objective reason to believe he had a weapon. Moreover, unlike Russo, which involved a rookie police officer who suffered mental and physical disorders after witnessing the death of person in a fire, 206 N.J. at 34, appellant had training, fourteen years of experience teaching special needs students, and previously encountered unruly students.

An applicant for accidental disability retirement benefits must prove the event "caused [them] to be permanently and totally disabled; that it was identifiable as to time and place; undesigned, unexpected, and external to the member; that it was work[-]related; not self-induced[;] and that the member is unable to perform [their] usual or any other duty." Russo, 206 N.J. at 32 (citing

Richardson, 192 N.J. at 212-13). "The polestar of the inquiry is whether, during the regular performance of [their] job, an unexpected happening, not the result of pre-existing disease alone or in combination with the work, has occurred and directly resulted in the permanent and total disability of the member." Richardson, 192 N.J. at 214. "To properly apply the Richardson standard, . . . the Board and a reviewing court must carefully consider not only the member's job responsibilities and training, but all aspects of the event itself. No single factor governs the analysis." Mount v. Bd. of Trs., Police & Firemen's Ret. Sys., 233 N.J. 402, 427 (2018).

Moran involved a fireman who was forced to break down a fortified door without the requisite equipment because his fire truck was not yet on scene, resulting in injuries as he forced his way into a structure to save victims. 438 N.J. Super. at 350. The court granted Moran accidental disability benefits, concluding the incident was an "unexpected and undesigned traumatic event that resulted in [his] suffering a disabling injury while performing his job" because he was not in a situation he "should have expected to find himself." Id. at 354-55.

In Brooks, a group of students were moving a 300-pound weight bench into the school when Brooks, the school custodian, "took charge of this activity

. . . ." 425 N.J. Super. at 279, 283. The students "suddenly dropped their side of the bench" causing Brooks to "suffer[] a total and permanently disabling shoulder injury . . . ." Id. at 279. We concluded the injury was undesigned and unexpected even though the accident involved a "common and mundane work effort[]" because it involved an "unusual situation." Id. at 283.

We are unconvinced appellant's circumstances were like Moran or Brooks, or met the Richardson undesigned and unexpected standard. As we noted, appellant's job description contemplates situations where she may have to "set and maintain standards" for the rules of behavior, "enforce[e] school rules, administrative regulations, and Board policy[,]" and "[t]ake[] necessary and reasonable precautions to protect students . . . ." Her testimony showed she encountered disruptive students in the classroom, and was trained to handle these situations, and had "seen it all." Although the incident may have been difficult, it was what her "training has prepared [her] for." Russo, 206 N.J. at 33. "[A]n employee who experiences a horrific event which falls within [their] job description and for which [they] ha[ve] been trained will be unlikely to pass the 'undesigned and unexpected' test." Ibid. The incident was unlike Brooks because appellant was not in an unusual situation. Although we cannot ignore the broken phone, appellant was not being threatened or held hostage, and got

to another classroom to summon assistance. This was much different than the "life-or-death decision" in Moran. 438 N.J. Super. at 355.

The Board decision was not arbitrary, capricious, or unreasonable, and was supported by the substantial credible evidence in the record. We decline to substitute our judgment for the Board's.

Affirmed.