

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

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_____AD3d_____

Argued - June 5, 2007

HOWARD MILLER, J.P.
WILLIAM F. MASTRO
ROBERT A. LIFSON
EDWARD D. CARNI, JJ.

2006-09847

DECISION & ORDER

In the Matter of Harry Ohnigian, Jr., appellant,
v New York City Fire Department Pension
Fund, et al., respondents.

(Index No. 1138/06)

Agruso & Trovato, LLP, Ronkonkoma, N.Y. (Andrew P. Vecere of counsel), for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Kristin M. Helmers and Norman Corenthal of counsel), for respondents.

In a proceeding pursuant to CPLR article 78 to review a determination of the respondent Board of Trustees of the New York City Fire Department Pension Fund, dated September 15, 2005, denying the petitioner's application for accident disability retirement benefits pursuant to the Administrative Code of the City of New York § 13-353, the petitioner appeals from a judgment of the Supreme Court, Kings County (Schneier, J.), dated August 7, 2006, which denied the petition and dismissed the proceeding.

ORDERED that the judgment is affirmed, with costs.

Credible evidence supports the challenged determination that the petitioner's disability was not a natural and proximate result of service-related disability (*see* Administrative Code of the City of New York § 13-353; *Matter of Meyer v Board of Trustees of N.Y. City Fire Dept., Art. 1-B Pension Fund*, 90 NY2d 139, 144-145; *Matter of Borenstein v New York City Employees' Retirement Sys.*, 88 NY2d 756, 760-761; *Matter of Imbriale v Board of Trustees of N.Y. City*

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Employees' Retirement Sys., 29 AD3d 995; *Matter of Aitola v New York City Employees' Retirement Sys.*, 25 AD3d 604, 605). Accordingly, the Supreme Court correctly denied the petition and dismissed the proceeding.

MILLER, J.P., MASTRO, LIFSON and CARNI, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court