

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

D20520  
X/prt

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - September 8, 2008

REINALDO E. RIVERA, J.P.  
HOWARD MILLER  
DANIEL D. ANGIOLILLO  
CHERYL E. CHAMBERS, JJ.

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2007-07993

DECISION & ORDER

In the Matter of Stephanie Silveira, appellant,  
v New York City Employees' Retirement  
System, et al., respondents.

(Index No. 5144/06)

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Jeffrey L. Goldberg, P.C., Lake Success, N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Leonard Koerner and  
Ronald E. Sternberg of counsel), for respondents.

In a proceeding pursuant to CPLR article 78 to review a determination of the Board of Trustees of the New York City Employees' Retirement System dated October 20, 2005, adopting the recommendation of the Medical Board of the New York City Employees' Retirement System and denying the petitioner's application for performance-of-duty disability retirement pursuant to Retirement and Social Security Law § 607-b, the petitioner appeals from a judgment of the Supreme Court, Kings County (Harkavy, J.), dated June 20, 2006, which denied the petition and dismissed the proceeding.

ORDERED that the judgment is affirmed, with costs.

The recommendation of the Medical Board of the New York City Employees' Retirement System, which was adopted by the Board of Trustees of the New York City Employees' Retirement System, finding that the petitioner was not disabled from performing her duties as an emergency medical technician, is supported by credible evidence and is not irrational, arbitrary, or capricious (*see Matter of Meyer v Board of Trustees of N.Y. City Fire Dept., Art. 1-B Pension Fund*,

September 30, 2008

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90 NY2d 139, 147; *Matter of Borenstein v New York City Employees' Retirement Sys.*, 88 NY2d 756, 760-761; *Matter of Campbell v Board of Trustees of N.Y. City Fire Dept., Art. 1-B Pension Fund*, 47 AD3d 926, 927-928; *Matter of Suppan v New York City Employees' Retirement Sys.*, 37 AD3d 474, 475; *Matter of Imbriale v Board of Trustees of N.Y. City Employees' Retirement Sys.*, 29 AD3d 995, 996). Accordingly, the Supreme Court properly denied the petition and dismissed the proceeding.

The petitioner's remaining contentions are without merit.

RIVERA, J.P., MILLER, ANGIOLILLO and CHAMBERS, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court