

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

D27955
C/prt

_____AD3d_____

Argued - May 6, 2010

PETER B. SKELOS, J.P.
JOSEPH COVELLO
L. PRISCILLA HALL
SANDRA L. SGROI, JJ.

2009-02614

DECISION & ORDER

In the Matter of Ann Godwin, appellant, v Board of
Education Retirement System of City of New York,
respondent.

(Index No. 18274/08)

Noah A. Kinigstein, New York, N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Kristin M. Helmers,
Ilyse Sisolak, and Janet L. Zaleon of counsel), for respondent.

In a proceeding pursuant to CPLR article 78 to review a determination of the Board of Education Retirement System of the City of New York dated May 31, 2005, which denied the petitioner's application for ordinary disability retirement, the petitioner appeals from a judgment of the Supreme Court, Kings County (Kramer, J.), entered December 31, 2008, which, in effect, denied the petition and dismissed the proceeding.

ORDERED that the judgment is affirmed, with costs.

The petitioner commenced this proceeding to review a determination which denied her application for "ordinary disability benefits." The Supreme Court dismissed the proceeding, *inter alia*, on the ground that the petitioner was not entitled to ordinary disability benefits because she had insufficient credited service. That determination is rational, and is supported by the undisputed facts in the record.

June 22, 2010

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The petition did not seek review of the denial of the petitioner's application for an accidental disability retirement. Therefore, issues pertaining to that application are not properly before this Court. Further, the petitioner's remaining contentions are not properly before this Court (*see Monadnock Constr., Inc. v DiFama Concrete, Inc.*, 70 AD3d 906).

SKELOS, J.P., COVELLO, HALL and SGROI, 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