

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

203

TP 13-01575

PRESENT: SCUDDER, P.J., CENTRA, PERADOTTO, LINDLEY, AND WHALEN, JJ.

IN THE MATTER OF ANTHONY J. HENSEL, PETITIONER,

V

MEMORANDUM AND ORDER

CITY OF UTICA, CITY OF UTICA POLICE DEPARTMENT
AND ANDREW V. LALONDE, AS DESIGNATED HEARING
OFFICER UNDER § 2-19-98 OF CITY OF UTICA CODE,
RESPONDENTS.

THE TUTTLE LAW FIRM, LATHAM (JAMES B. TUTTLE OF COUNSEL), FOR
PETITIONER.

MARK C. CURLEY, CORPORATION COUNSEL, UTICA (ARMOND J. FESTINE OF
COUNSEL), FOR RESPONDENTS.

Proceeding pursuant to CPLR article 78 (transferred to the Appellate Division of the Supreme Court in the Fourth Judicial Department by a corrected order of the Supreme Court, Oneida County [David A. Murad, J.], entered August 19, 2013) to review a determination of respondents. The determination denied petitioner's application for General Municipal Law § 207-c benefits.

It is hereby ORDERED that the determination is unanimously confirmed without costs and the petition is dismissed.

Memorandum: Petitioner commenced this CPLR article 78 proceeding seeking to annul the determination that he is not entitled to General Municipal Law § 207-c benefits. Petitioner was injured on March 9, 2008 while on duty as a police officer when he slipped on ice on the roadway and fell. Petitioner received General Municipal Law § 207-c benefits until June 2009, when he returned to work in a light-duty capacity. Petitioner returned to full duty later that year but, in January 2012, he stopped working and sought to resume the section 207-c benefits. After a hearing, the Hearing Officer determined that petitioner could perform the duties of a police officer and denied his application. We agree with respondents that the Hearing Officer's determination that petitioner was able to perform his regular duties is supported by substantial evidence (*see generally Matter of Clouse v Allegany County*, 46 AD3d 1381, 1381-1382; *Matter of Bernhard v Hartsdale Fire Dist.*, 226 AD2d 715, 716-717). We have considered petitioner's remaining contentions and conclude that they are without merit.

Entered: March 21, 2014

Frances E. Cafarell
Clerk of the Court