

**Rawlins v Teachers' Retirement Sys.  
of the City of N.Y.**

2021 NY Slip Op 34134(U)

November 4, 2021

Supreme Court, New York County

Docket Number: Index No. 159540/2020

Judge: Arthur F. Engoron

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. ARTHUR ENGORON PART 37

Justice

-----X

MICHELE RAWLINS,

Petitioner,

- v -

TEACHERS' RETIREMENT SYSTEM OF THE CITY OF
NEW YORK, THE CITY OF NEW YORK,

Respondents.

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INDEX NO. 159540/2020

MOTION DATE 11/13/2020

MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43

were read on this motion for CPLR ARTICLE 78 RELIEF

Upon the foregoing documents, it is hereby ordered that the petition is denied and dismissed.

In this CPLR Article 78 special proceeding, petitioner seeks to overturn a final determination of respondents that denied petitioner's application for accidental disability retirement ("ADR").

Petitioner, a former Department of Education ("DOE") school principal, alleges that she is disabled, suffering from post-traumatic stress disorder ("PTSD") as a result of a series of incidents at work where a disgruntled school food worker, Mr. A., attempted to gain entry to school premises in order to, inter alia, confront petitioner.

The crux of petitioner's argument is that respondents erred in determining that petitioner's disability was not "accidental" as defined by governing case law.

In order to qualify for ADR, an applicant must show that he or she is "physically or mentally incapacitated for the performance of city-service, as a natural and proximate result of an accidental injury received in such city-service." New York City Administrative Code § 13-353.

For purposes of this provision, the Court of Appeals has defined "accident" as a "sudden, fortuitous mischance, unexpected, out of the ordinary, and injurious in impact." Lichtenstein v Bd. of Trustees of Police Pension Fund of the Police Dep't of the City of New York, 57 NY2d 1010, 1012 (1982).

"In an article 78 proceeding challenging the disability determination, the Medical Board's finding will be sustained unless it lacks rational basis, or is arbitrary or capricious." Borenstein v New York City Empls.' Ret. Sys., 88 NY2d 756, 760 (1996).

This Court cannot say that respondents' determination lacked a rational basis. New York courts have held that intentional harassment or assault by a coworker does not constitute a service-related accident. Ammar v New York City Empls.' Ret. Sys., 187 AD3d 687, 688 (1st Dep't 2020) (physical and psychological injuries caused by physical assault of coworker not accident).

Thus, for the reasons stated herein, the Clerk is hereby directed to enter judgment denying and dismissing the petition.

11/4/2021

DATE



ARTHUR ENGORON, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE