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Supreme Court, Appellate Division, Third Department, New York

In the Matter of MICHELE GRECO-MEYER, Appellant,

v.

NASSAU COUNTY POLICE DEPARTMENT et. al., Respondents.

WORKERS' COMPENSATION BOARD, Respondent.

May 19, 2016

Facts: The claimant, who was a police officer, suffered work-related injuries and did not return to full duty as a police officer after the accident and continued working on a restricted basis. Claimant subsequently retired with a regular service retirement and was later diagnosed with breast cancer. Following hearing, the WCLJ ruled that the claimant did not voluntarily remove herself from the labor marked by retiring and was entitled to payments for permanent partial disability subsequent to the date of her retirement. The Worker's Compensation Board concluded that the claimant's retirement was voluntary and not due to her work injury. Claimant now appeals.

Holding: *Affirmed.*

Discussion: "Generally, a claimant who voluntarily withdraws from the labor market by retiring is not entitled to worker's compensation benefits unless the claimant's disability caused or contributed to the retirement." Here claimant did not state her work-related disability was the reason for her retirement. She also did not state that she was no longer able to perform the duties of her restricted assignment at the time of her retirement, and there was no medical evidence establishing that her condition had worsened. It appears from the record that, after satisfying the age and service requirements necessary to qualify for a regular retirement pension, the claimant simply decided to retire.