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Kelly v. DiNapoli

Court of Appeals of New York - February 13, 2018 - N.E.3d - 2018 WL 828098 - 2018 N.Y. Slip Op. 01016

Police officer and firefighter filed individual applications for accidental disability retirement benefits.

The Supreme Court, Appellate Division denied police officer's application, and the Supreme Court, Appellate Division, granted firefighter's application. Upon appeal, the cases were consolidated.

The Court of Appeals held that:

- Police officer's injuries to neck and back were not result of an "accident," and
- Firefighter's injuries to heart were not result of an "accident."

Police officer who sustained neck and back injuries when roof beam fell on him while he was rescuing trapped homeowners after hurricane was not injured as a result of an "accident," as would permit him to receive accidental disability retirement benefits, since there were no precipitating accidental events occurring that were not a risk of the work he performed; police officers were expected to assist injured persons, and responding to emergencies was among their ordinary duties.

Firefighter who sustained disabling heart injuries when he was exposed to toxic gasses while performing cardiopulmonary resuscitation (CPR) for approximately 25 to 30 minutes on an individual inside a commercial freezer was not injured as a result of an "accident," as would permit him to receive accidental disability retirement benefits, since there were no precipitating accidental events occurring that were not a risk of the work he performed; exposure to toxic chemicals was a risk for which firefighter had been trained, he had responded to a gas leak in the past, and his job duties specifically required working with exposure to fumes, explosives, toxic materials, chemicals and corrosives.