

THERESA GORDON, :

PETITIONER, :

V. : COMMISSIONER OF EDUCATION

STATE-OPERATED SCHOOL DISTRICT OF : DECISION

THE CITY OF JERSEY CITY, :

HUDSON COUNTY, :

RESPONDENT. :

---

SYNOPSIS

Petitioner – an administrative analyst in respondent’s school district – was diagnosed with carpal tunnel syndrome in 2012; she subsequently underwent surgery and was absent from work commencing January 28 through May 1, 2013. In March 2014, petitioner underwent surgery for trigger fingers, after which she was on leave from March 12, 2014 through July 7, 2014. Petitioner challenged the Board’s decision to pay 70 percent of her salary, rather than 100 percent, for the days she was absent from work due to her compensable injury. The parties filed cross motions for summary decision.

The ALJ found, *inter alia*, that: there are no material facts at issue in this case, and the matter is ripe for summary decision; petitioner’s appeal was timely filed within 90 days from the date she received a determination from the Division of Workers Compensation on her underlying injury; it is uncontroverted that petitioner’s injury was work-related and compensable; the issue here is whether petitioner was entitled to be compensated at a rate of 70 percent or 100 percent of her salary for the days she was out of work due to a compensable injury; petitioner first reported her carpal tunnel syndrome in January 2012, but did not have surgery for the condition until January 28, 2013 – after which petitioner was on leave until her return to work on May 1, 2013; since her first absence due to carpal tunnel was on January 28, 2013, petitioner is entitled to be compensated at a rate of 100 percent for the period from January 28 through May 1, 2013; petitioner’s second absence due to carpal tunnel was from March 12, 2014 to July 7, 2014, which was clearly more than one year after her first absence; and *N.J.S.A.* 18A:30-2.1(a) provides that an employer must pay the full salary or wages for a period of up to one calendar year when an employee is absent from work due to an accident arising out of and in the course of his or her employment. The ALJ concluded that petitioner is entitled to one hundred percent of her salary for her absence from January 28 through May 1, 2013, but not for her absence from March 12 through July 7, 2014.

The Commissioner concurred with the findings and determination of the ALJ herein; accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter.

This synopsis is not part of the Commissioner’s decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.

OAL DKT. NO. EDU 01483-18  
AGENCY DKT. NO. 1-1/18

THERESA GORDON, :  
 :  
 PETITIONER, :  
 :  
 V. : COMMISSIONER OF EDUCATION  
 :  
 STATE-OPERATED SCHOOL DISTRICT OF : DECISION  
 THE CITY OF JERSEY CITY, :  
 HUDSON COUNTY, :  
 :  
 RESPONDENT. :

---

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed, as have the exceptions filed by the petitioner pursuant to *N.J.A.C. 1:1-18.4*, and the Board’s reply thereto.

In this matter, petitioner – an administrative analyst – was diagnosed with carpal tunnel syndrome on January 4, 2012. She underwent surgery and was absent from work commencing January 28, 2013 through May 1, 2013. Thereafter, petitioner underwent surgery on her trigger fingers, and was out of work from March 12, 2014 through July 7, 2014. Petitioner challenges the Board’s decision to pay her 70 percent of her salary – rather than her full salary – for the days she was absent from work due to a compensable injury. The Administrative Law Judge (ALJ) found that, in accordance with *N.J.S.A. 18A:30-2.1(a)* – which provides that an employer must pay the full salary or wages for a period of up to one calendar year when an employee is absent from work due to an accident arising out of and in the course of his or her employment – petitioner is entitled to one hundred percent of her salary for her

absence from January 28 through May 1, 2013, but not for her absence from March 12 through July 7, 2014.

In her exceptions, petitioner argues that the ALJ erred in denying petitioner her full salary for her second medical leave, from March 12 through July 7, 2014. Petitioner contends that both her 2013 and 2014 medical leaves were attributable to her carpal tunnel syndrome, and that the two leave periods combined were less than 12 months in duration. Petitioner did not delay her second surgery, and maintains that she should not be punished because she was unable to complete her treatment within 12 months.

Petitioner also argues that she is entitled to 100 percent of her salary for her 2014 medical leave because the Board acted in bad faith in advising her on how to proceed with her treatments when she was diagnosed with carpal tunnel in 2012. Petitioner explains that the Board advised her to handle her separate cancer treatment before addressing her carpal tunnel syndrome, which is why petitioner waited until 2013 for her first medical leave.

In reply, the Board contends that petitioner fails to cite any case law or legal authority for her arguments, and ignores the Appellate Division's finding in *Theodore v. Dover Board of Education*, 183 N.J. Super. 407, 416 (App. Div. 1982) that N.J.S.A. 18A:30-2.1 is only meant to "complement workers' compensation benefits for a strictly limited time period." (Respondent's Exceptions at 2) Further, the Board cites to *Williams v. Board of Education of Deptford Township*, 192 N.J. Super. 31, 41 (1983), affirmed 98 N.J. 319 (1985), for the proposition that the Legislature only intended for the statute to cover the period of time equivalent to one calendar year, or 12 months total, and no longer. The Board points out that petitioner's arguments in her summary decision motion only involved her 2013 medical leave with no mention of her 2014 medical leave, yet her exceptions now seek 100 percent of her

salary for her second medical leave. Additionally, the Board disputes petitioner's argument that the Board engaged in bad faith.

The Board argues that the ALJ erred in finding that petitioner's carpal tunnel syndrome qualified as an "accident" within the meaning of *N.J.S.A.* 18A:30-2.1(a). The Board also contends that the Initial Decision should be rejected because the action is barred by the 90-day limitations period set forth in *N.J.A.C.* 6A:3-1.3(i). Accordingly, the Board seeks to dismiss the petition in its entirety. Alternatively, the Board requests that the Commissioner adopt the Initial Decision and the finding that petitioner is only entitled to additional compensation for her first medical leave, in 2013.

Upon review, the Commissioner agrees with the ALJ – for the reasons thoroughly expressed in the Initial Decision – that *N.J.S.A.* 18A:30-2.1(a) applies to petitioner's injury, and that she is therefore entitled to be paid at 100 percent of her salary for her absence from January 28, 2013 through May 1, 2013. The Commissioner further concurs with the ALJ that the Board was not required to pay petitioner 100 percent of her salary for her second absence, from March 12, 2014 through July 7, 2014, because it occurred more than one year after her first absence.

The Commissioner does not find petitioner's exceptions to be persuasive. Petitioner is only eligible to receive her full salary for "up to one calendar year." *N.J.S.A.* 18A:30-2.1(a). The Appellate Division found in *Williams, supra*, 192 *N.J. Super.* at 41 that "[i]n our view, the Legislature intended to make clear that . . . what was intended was a period of time the equivalent of a calendar year. That is a period of up to 12 full months . . . but no longer." As such, petitioner cannot combine her two medical leaves, as her 2014 medical leave occurred more than one calendar year after her 2013 medical leave. Petitioner is not being

punished for the inability to schedule both surgeries within a 12-month period. The statute is only intended to apply for “a strictly limited time period.” *Theodore, supra*, 183 *N.J. Super.* at 416. Additionally, petitioner’s argument that she is entitled to her full salary for her second absence due to a bad faith action of the Board is without merit.

Although the Board did not file exceptions in this matter, the Commissioner finds that the arguments raised in the Board’s reply in support of dismissal of the petition are not persuasive. The Commissioner agrees with the ALJ that petitioner’s carpal tunnel syndrome qualifies as an “injury caused by an accident” for the purpose of *N.J.S.A.* 18A:30-2.1(a). The Appellate Division has found that the term “accident” in *N.J.S.A.* 18A:30-2.1 has the same meaning as it does in the context of the Workers’ Compensation Act: “the term ‘accident’ has traditionally been construed to include all work-related episodes and events resulting in an injury, and indeed all unexpected injuries, whether or not unusual strain or exertion was involved and whether or not there was a direct impact.” *Theodore, supra*, 183 *N.J. Super.* at 415. Additionally, petitioner filed this action within 90-days of the determination by the Division of Workers’ Compensation, in accordance with *N.J.A.C.* 6A:3-1.3(i)(1).

Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter. Petitioner is entitled to compensation in the amount of her full salary for the time she was out of work from January 28, 2013 through May 1, 2013.

IT IS SO ORDERED.<sup>1</sup>

COMMISSIONER OF EDUCATION

Date of Decision: October 2, 2018  
Date of Mailing: October 3, 2018

---

<sup>1</sup> This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L.* 2008, *c.* 36 (*N.J.S.A.* 18A:6-9.1).