

JOAN K. STEELE

v.

MAINE PUBLIC EMPLOYEES RETIREMENT SYSTEM

Submitted on Briefs October 2, 2008

Decided October 14, 2008

Panel: CLIFFORD, ALEXANDER, LEVY, SILVER, MEAD, and GORMAN, JJ.

MEMORANDUM OF DECISION

Joan K. Steele appeals, pursuant to 5 M.R.S. § 11008 (2007) and M.R. Civ. P. 80C, from a judgment entered in the Superior Court (Somerset County, *Jabar, J.*) affirming a decision of the board of trustees of the Maine State Retirement System.¹ Following an administrative appeal, the board determined that Steele did not prove that she continues to have the disability for which she had been receiving disability retirement benefits and did not prove that she is unable to engage in substantially gainful activity.

We review the board's decision directly for an abuse of discretion, error of law, or findings not supported by the evidence. *Martin v. City of Lewiston*, 2008 ME 15, ¶ 9, 939 A.2d 110, 113; *Lovely-Belyea v. Me. State Ret. Sys.*, 2002 ME 138, ¶ 7, 804 A.2d 359, 362. The party seeking to vacate an agency decision bears the burden of persuasion. *Martin*, 2008 ME 15, ¶ 9; 939 A.2d at 113. Pursuant to 5 M.R.S. § 11007(4)(C)(5) (2007), an agency decision may be reversed if the agency's findings are "[u]nsupported by substantial

¹ The Maine Public Employees Retirement System was formerly known as the Maine State Retirement System. Effective September 20, 2007, P.L. 2007, ch. 58, § 1 amended 5 M.R.S. § 17101(2) (2007) to change the name.

evidence on the whole record.” Title 5 M.R.S. § 11007(3) (2007) establishes a deferential standard of review of agency findings of fact, stating: “The court shall not substitute its judgment for that of the agency on questions of fact.” Findings of fact will be upheld unless they are clearly erroneous. *Green v. Comm’r of the Dep’t of Mental Health, Mental Retardation & Substance Abuse Servs.*, 2001 ME 86, ¶ 9, 776 A.2d 612, 615. “When an agency concludes that the party with the burden of proof failed to meet that burden, we will reverse that determination only if the record compels a contrary conclusion to the exclusion of any other inference.” *Hale-Rice v. Me. State Ret. Sys.*, 1997 ME 64, ¶ 17, 691 A.2d 1232, 1237 (quotation marks omitted).

The evidence does not compel a conclusion contrary to that arrived at by the board of trustees. Steele’s other arguments are without merit.

The entry is:

Judgment affirmed.

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