

The Chief

Traumatized by WTC Experiences

Ex-EMT to Finally Receive Disability Pension as City Drops Long Appeal

THE CHIEF LEADER |

By BOB HENNELY | FEBRUARY 26, 2018

The de Blasio administration has dropped its appeal of a 2017 state-court ruling in favor of a former FDNY Emergency Medical Technician, clearing the way for him to finally get the 9/11 World Trade Center disability award that the New York City Employees' Retirement System had denied him for post-traumatic stress disorder.



'LIKE BEING A COMBAT VETERAN': Retired Emergency Medical Technician Michael Markowski has finally had the path cleared to received a disability pension connected to the mental toll that his service at the World Trade Center site on 9/11 and during its aftermath took on him. Discussing that period and the other horrors he witnessed as he treated patients on the street, he said of pension-board officials, 'They think it is not like being a combat veteran, but it really is.'



The Chief

Last February, Brooklyn State Supreme Court Justice Lisa S. Ottley ruled for Michael Markowski, 46, who was one of the first city employees to respond to the Twin Towers after the 9/11 terrorist attack.

Skewered Board's Ruling

In her decision, Justice Ottley wrote that NYCERS's rejection of his disability claim was "arbitrary and capricious" and that the findings its board offered to substantiate the denial "were not based upon an articulated medical opinion constituting credible and rational evidence."

Mr. Markowski, who lost friends in the Twin Towers' collapse, was assigned to remove body parts from the site. He was detailed to the Chief Medical Examiner's Office for three days after the attack and provided emergency medical care at The Pile for months afterward.

Nicholas Paolucci, a spokesman for the city Corporation Counsel, maintained its lawyers still "strongly" believed "the Supreme Court overstepped its authority" by granting the accident-disability pension rather than sending it back to the NYCERS Board for reconsideration. "However, upon further evaluation we have decided that it was in the city's best interests to not appeal the ruling," Mr. Paolucci added in a statement.

"They made a business decision," said Jeffrey Goldberg, Mr. Markowski's lawyer, in a phone interview. "They were worried about losing an Appellate Court decision, which would have really set a precedent. This is also a way to head off potential legislation from Albany by letting at least once case stand where a first-responder prevailed in state court."

The Chief

Not the Only One

He said he had dozens of cases like Mr. Markowski's where the client was a 9/11 first-responder but in the years since became enmeshed in bureaucratic battles that moved to the courts.

"This win does give these folks some hope but they really drag you through the mud, delays and additional legal fees and aggravation," Mr. Goldberg said. "Right now, I have a suicidal NYPD Detective that NYPD's Psych Services says is malingering. The Medical Board says he's not disabled but the NYPD won't give him his gun back."

Mr. Markowski, who had also battled the state Workers' Compensation Board starting in June 2013, was pleased with the city's decision to drop the appeal. "From the material/financial side of things, without a doubt it does affect my ability to proceed in life but it also restricts you in some ways," he said in a phone interview. "But the journey is just beginning." He said he expected it would be six months before he got his first check.

Hard to Enjoy Life

He said he was mindful of instances where city workers, even though they got their disability pension, came under additional scrutiny if "they showed up in Facebook pictures fishing, looking like they were happy...in some ways it's like they are incentivizing you not to embrace life."

A 9/11 first-responder support group that had blasted the city for pursuing three extensions to file its appeal of Mr. Markowski's court victory, praised the de Blasio administration's decision to let the ruling stand.



The Chief

“It is a good sign that the city has finally stopped denying his benefits,” said Benjamin Chevat, executive director of 911 Health Watch, a union-backed advocacy group. “I hope that this is a sign there will be more real progress in the coming weeks and months on other 9/11 disability claims that have taken too long to approve.”

In a phone interview, Mr. Markowski said he had continued to work up until 2013 but the traumatic impact had been cumulative. He said his breaking point came after he was attacked on two separate occasions by patients he was treating. “I had been a paramedic in New York City since 1993, been shot at, cared for children that were shot, treated a police officer that was shot, attended to a Firefighter who died in a fire, dealt with people that were hit by trains, witnessed elder abuse, seen buildings blow up,” he said. “They think it is not like being a combat veteran, but it really is.”

Too Many Rejected

The issue of 9/11 first-responders being turned down by the city pension system for disability has drawn the attention of Manhattan Borough President Gale Brewer and State Sen. Martin Golden. Both elected officials reported that their offices were handling a high volume of public employees ensnared in prolonged battles with NYCERS over their disability applications.

Last November, NYCERS officials testified before the State Senate Committee on Pensions and the Civil Service that 45 percent of World Trade Center disability cases they handled were approved while 55 percent were denied. For FDNY EMT WTC disability cases, the approval rate was slightly higher, at 52.1 percent.

The Chief



GALE BREWER: A chronic problem with NYCERS.



JEFFREY GOLDBERG: 'A business decision by city.'