In the Matter of the Arbitration Between: TOWN OF SHEFFIELD

and

SHEFFIELD POLICE OFFICER'S ASSOCIATION, LOCAL 474, MASSCOP

ARB-20-8358

111.82 police
113.123 injury on duty leave

January 24, 2022
Timothy Hatfield, Arbitrator

Timothy Zessin, Esq.	*Representing Town of Sheffield*
Terence Coles, Esq.	*Representing Sheffield Police Officer's Association, Local 474, MASSCOP*

ARBITRATOR'S DECISION

The parties received a full opportunity to present testimony, exhibits and arguments, and to examine and cross-examine witnesses at a hearing. I have considered the issues, and, having studied and weighed the evidence presented, conclude as follows:

INTRODUCTION

Sheffield Police Officer's Association, Local 474, MASSCOP (Union) filed a unilateral petition for Arbitration. Under the provisions of MGL Chapter 23, Section 9P, the Department of Labor Relations (Department) appointed Timothy Hatfield, Esq. to act as a single neutral arbitrator with the full power of the Department. The undersigned Arbitrator conducted a virtual hearing via Web Ex on April 6, 2021.

The parties filed briefs on May 12, 2021, and filed additional evidence and responses on October 25, 2021, and November 3, 2021.

THE ISSUE

Did the Town violate Article XV of the parties' collective bargaining agreement when it denied the grievant injured on-duty benefits in accordance with Massachusetts General Laws Chapter 41, §111F from July 2, 2020, to the present? If so, what shall be the remedy?

RELEVANT CONTRACT LANGUAGE

The parties' collective bargaining agreement (Agreement) contains the following pertinent provisions:

> **ARTICLE XV, ADDITIONAL INSURANCE AND OTHER PROVISIONS (In Part)**
>
> The Town shall provide full-time police officers with Group Life Insurance amounting to Ten Thousand ($10,000.00) Dollars' worth of coverage.
>
> If a full-time police officer becomes unable to perform his/her assigned duties due to an injury or illness received as a result of his/her performance as a Sheffield Police Officer, he/she shall continue to receive full pay, provided that any compensation payable to the police officer for loss of pay under an insurance policy supplied by the Town shall be assigned to the Town. Injured on Duty Leave (I.O.D.) The Town will administer I.O.D. in accordance with the provisions of MGL c. 41, s. 111F. …
>
> **RELEVANT MASSACHUSETTS GENERAL LAW**
>
> **Chapter 41, Section 111F (In Part)**
>
> Whenever a police officer or fire fighter of a city, town, or fire or water district is incapacitated for duty because of injury sustained in the performance of his duty without fault of his own, or a police officer or fire fighter assigned to special duty by his superior officer, whether or not he is paid for such special duty by the city or town, is so incapacitated because of injuries so sustained, he shall be granted leave without loss of pay for the period of such incapacity; provided, that no such leave shall be granted for any period after such police officer or fire fighter has been retired or pensioned in accordance with law or for any period after a physician designated by the board or officer authorized to appoint police officers or fire fighters in such city, town or district determines that such incapacity no longer exists. All amounts payable under this section shall be paid at the same times and in the same manner as, and for all purposes shall be deemed to be, the regular compensation of such police officer or fire fighter. …

FACTS

The Town of Sheffield (Town) and the Union are parties to a collective bargaining agreement that was in effect at all relevant times to this arbitration. Christopher Colello (Colello) was hired by the Town as a full-time police officer in September 2018.

In April 2008, Colello was hired as a police officer by the City of Pittsfield. On November 3, 2010, Colello was involved in an on the job shooting incident. Responding to a domestic incident, Colello chased a suspect into a wooded area. The suspect had doused himself in gasoline and was brandishing a knife. The suspect failed to comply with police commands and began walking towards officers in a threatening manner with a lighter and a knife. Colello shot the suspect. Colello was taken to the hospital for evaluation, cleared and released before heading home. An investigation into the shooting determined that Colello's use of force was appropriate, and he returned to full duty in early 2011.

Colello's psychological state began deteriorating after his return to full duty. He began suffering from depression, paranoia, and PTSD. He suffered nightmares, anxiety attacks, racing thoughts, and fits of rage prior to having suicidal thoughts in 2013. Colello began counseling in the summer of 2011 and was diagnosed with anxiety, severe depression and PTSD resulting from the November 3, 2010 shooting. Colello began taking medication to help with these psychological issues.

In June 2013, Colello's psychological condition deteriorated to the point that he was driving around looking for a place to commit suicide. His family and a Captain in the Pittsfield Police Department intervened and were able to convince him to go on injury leave and seek in-patient treatment for his mental health issues. The Pittsfield Police Department placed Colello on MGL

c. 41, §111F injury leave (§111F leave) until his Application for Accidental Disability Retirement was approved in April 2014.

Colello continued his psychological and medication treatment programs and in 2015, he felt that he had his PTSD and depression under control to the extent that he petitioned PERAC to return to work as a police officer. After evaluation, PERAC informed the Pittsfield Retirement Board on January 4, 2016, that Colello should be reinstated. On February 28, 2016, Colello was reinstated to his position as a police officer in Pittsfield.

On September 1, 2017, Colello was finishing a detail assignment when he heard an urgent call for backup at a nearby location. Responding to the scene, Colello found two officers struggling with a man who had barricaded himself inside a residence. The responding officers had formed a perimeter around the residence when the individual exited the building brandishing a knife in a threatening manner and making threatening comments about his desire to die. The man began running towards the officers, and Colello responded by firing his weapon and killing the individual. The State Police and the Pittsfield Police Department investigated the shooting and concluded that Colello's use of force was appropriate, and he was cleared to return to work.

Upon returning to work, Colello began experiencing the same symptoms he experienced after the first shooting, including difficulty sleeping, nightmares, irritability, fear of not being able to do his job as a police officer, and a negative and potentially violative mood. He notified the Pittsfield Police Department that he was unable to work and was placed on §111F injury leave at which time he checked himself into a ten-day inpatient treatment program. After his discharge, Colello continued with treatment before being cleared to return to work in early 2018.

In mid-2018, Colello began exploring the idea of working for a smaller police department doing more community policing in a less stressful environment. In July 2018, Colello applied to the Sheffield Police Department. Colello was open about his prior shooting incidents in 2010 and 2017, and the PTSD and depression that had followed those incidents. Sheffield Police Chief Eric Munson (Chief Munson), after meeting with Colello, reported the information to the Board of Selectmen prior to interviewing Colello for the position. During the interview the Board of Selectmen told Colello that they did not need to revisit the shooting incidents. Subsequently Colello was offered a conditional offer of employment subject to a background check and a review of his personnel file. On September 21, 2018, Colello began working as a Sheffield Police Officer assigned to the day shift.

After six months on the job, Colello applied for, and was promoted to, a sergeant position effective June 2, 2019. The sergeant's position was more time consuming than Colello anticipated with significant after-hours demands. One month after his promotion, Colello requested to revert back to his patrol officer position as he felt that he was not being fairly compensated for his extra responsibilities as a supervisor. In response, the Town agreed to pay him overtime for certain hours, including court time and holidays. Colello decided to remain in the sergeant's position.

On October 23, 2019, Colello responded to a noise disturbance call. Upon arriving at the property owned by Mr. Jordano (Jordano), Colello was met by Jordano who was operating a skid steer that had a log grabber attached to the front. Jordano was yelling at Colello and Officer Gonska to get off his property. Jordano refused commands to shut the machine off and continued to drive at Colello. Colello believed that Jordano was trying to run him over. Colello felt trapped because it was dark, there were logs piled up around him and the ground was muddy and rutted. As Jordano moved closer, Colello drew his service weapon and pointed it at Jordano, believing that he would have to shoot him if he didn't stop before a certain point. Prior to reaching this point (about 15-20 feet away), Jordano finally shut off the machine and exited it and continued to argue with the officers before finally being convinced to leave the property. A cruiser cam video recording was only able to record a small portion of the encounter due to its location in the front of the property and lack of lighting. Colello returned to the station and completed a Summons Report and Personnel Narrative about the encounter. The narrative stated:

> I could hear the loud engine noise and what sounded like large logs being moved coming from behind the trailer home on the property. The property was covered in large logs which were stacked throughout. The land was very muddy and covered in large tractor style tire tracks. I made my way to the back of the property where I could hear the noise coming from to speak with Mr. Jordano. As I got to the front of the house on the south side, I observed a skid steer come from the rear of the house. Mr. Jordano could be seen operating it. I am familiar with Mr. Jordano from previous dealings. Mr. Jordano yelled at me to get off his property. I told him to stop the machine and get out so that we could speak. Mr. Jordano ignored my commands and raised the log grabber mounted on the front of the skid steer and started to drive directly towards me. I could see inside the cab of the machine. Mr. Jordano had a 1000-yard stare in his eyes, and he looked extremely angry. I yelled at him to stop and identified myself multiple times as a police officer. Mr. Jordano ignored all commands and continued to drive straight towards me while yelling multiple times to get off his property. Fearing that Mr. Jordano was trying to run me over and attack me with the machine I looked for a place to retreat to. I was standing next to a large pile of logs and the ground was very muddy and uneven. I had nowhere to go. Fearing that Mr. Jordano may have killed me or seriously injured me I continued to give him commands to stop, turn the engine off and exit the machine. I drew my service weapon and pointed it at Mr. Jordano inside thew cab of the machine. Officer Gonska and I continued to give him commands and identify ourselves as the police multiple times.
>
> Mr. Jordano finally stopped about 15 to 20 feet away from me. He continued to yell and subsequently parked the machine.

After the October 23, 2019 incident, Colello's PTSD and depression gradually returned. He began to experience increased irritability, depression, dissociative thoughts, and sleeplessness. By January 2020, Colello was again having suicidal thoughts. Colello's wife observed him increasingly irritable and angry, and he was frequently sullen and depressed. These bad days increased in January 2020, and she encouraged Colello to seek help, but he refused.

On February 10, 2020, Colello again sent a letter to Chief Munson about his unhappiness with the compensation for the sergeant's position and the obstacles he perceived to be hampering his ability to lead and supervise. In addition, he complained about being stuck on the night shift and stated that it was difficult for his children. He was also upset about not receiving a $2000 increase that

he believed he was promised. Upon receipt of this letter, Colello was allowed to revert back to his patrol officer position.

While reverting back to patrol eased some of the stress Colello was feeling, by April 2020 he came to the realization that he needed help to deal with the PTSD and depression. Colello struggled to find a therapist due to the COVID pandemic before finally reaching out to the Town's EAP program seeking assistance.

In June 2020, Colello decided he could no longer keep his struggles secret as his symptoms were getting worse and he was having suicidal thoughts. On July 2, 2020, Colello met with Chief Munson to inform him that the October 23, 2019 incident had brought back his PTSD and depression, and that he needed to go on §111F injury leave as he needed to get treatment. Afterwards, he provided the Town with medical records dated July 7, 2020, July 10, 2020, and July 24, 2020, supporting his request. The Town was also in possession of his incident report from October 23, 2019.

On July 10, 2020, Colello was admitted to the LEADER program (Law Enforcement, Active Duty, Emergency Responder) at McLean Hospital in Belmont Massachusetts. On July 24, 2020, Colello provided the Town with a medical note from McLean hospital documenting that he had been admitted to the inpatient LEADER program for treatment of his PTSD and his discharge was tentatively planned for July 30, 2020. After his discharge from the inpatient LEADER program, Colello began receiving treatment in the outpatient LEADER program.

On August 13, 2020, the Board of Selectmen met to consider Colello's request for §111F benefits. On August 21, 2020, the Board denied Colello claim by stating:

> It is undisputed that you continued to work after this [October 23, 2019] incident. At no point did you ever assert verbally or in writing that you suffered an injury as a result of the October 23, 2019 incident. Not until several weeks after you filed your claim on July 8, 2020 did you first mention the October 2019 incident as a purported cause for your disability. While the Town certainly appreciates that you are suffering from a mental health condition, there is simply no evidence that your present disability was sustained in the performance of your duty as a Sheffield Police Officer.

On November 24, 2020, Colello applied for Accidental Disability Retirement with the Berkshire County Retirement Board based on his work-related PTSD, depression, and anxiety. In support of his application, Beth Murphy, M.D. (Dr. Murphy), a psychiatrist at McLean Hospital, who was involved in his treatment in the inpatient and outpatient portions of the LEADER program, submitted a Physician's Statement in support of Colello's application for accidental disability retirement. In this statement, Dr. Murphy indicates that Colello's dates of injuries were 11/03/10, 07/1/17, and 10/24/19. She set forth his medical diagnosis as PTSD and stated that Colello was last able to work on October 24, 2019. Dr. Murphy stated that Colello is mentally incapable of performing the essential duties of his job as a police officer, and Colello's incapacity is permanent because of "worsening PTSD symptoms in Oct 2019 following confrontation with apparent threat to life PTSD symptoms included dissociation/loss of time, paranoia, and suicidality."

On September 29, 2021, the Berkshire County Retirement Board approved Colello's application for accidental disability retirement and sent its decision on to PERAC for approval based on the medical opinions that found that Colello was disabled from working as a police officer as a result of the exacerbation of his PTSD stemming from the October 2019 incident.[1]

POSITIONS OF THE PARTIES

THE UNION

Article XV of the collective bargaining agreement requires the Town to provide injured on duty benefits to full-time officers pursuant to MGL c. 41, §111F. The plain and unambiguous language in §111 F requires a Town to grant a police officer leave without loss of pay during the period the police officer is "incapacitated for duty because of injury sustained in the performance of his duty without fault of his own." It further provides that such injury leave compensation will not be paid for "any period after a physician designated by the board or officer authorized to appoint police officers … determines that such incapacity no longer exists." Arbitrators and courts have consistently interpreted §111F to cover psychological or mental injuries.

Here, the Town admits that Colello is incapacitated for duty. Further the Town admits that Colello's disabling condition is Post Traumatic Stress Disorder, and every psychiatrist and psychologist who has examined Colello since the October 23, 2019 incident has concluded that Colello is incapacitated for duty because of his PTSD. The Town's only claim is that Colello's incapacitating PTSD is not the result of the October 23, 2019 incident. Instead of offering any medical evidence, the Town relies entirely on a dashcam video recording that shows almost nothing because of darkness and the position of the people involved. If the Town is questioning whether the October 23, 2019 incident exacerbated Colello's PTSD, it could have sent him to a Town-appointed psychiatrist who could have examined him and opined on the effect of the October 23, 2019 incident. Instead, the Town comes before the Arbitrator with a video recording, asking the Arbitrator to play psychiatrist.

The evidence presented however, definitively answers the question of what caused Colello's PTSD. Dr. Murphy's Physician Statement, submitted as part of Colello's application for accidental disability retirement, under "Causation" states: "multiple in line of duty incidents beginning in 2010 with physical injury and significant fatal injuries to suspects in 2010, 2017, recent exacerbation of old trauma with LOD threat to physical safety 10/2019" and "multiple line of duty injuries in 2010 to 2019 exacerbating underlying trauma disorder." Accordingly, the Arbitrator should find that the Town improperly denied §111F benefits to Colello.

Incapacity Sustained in the Performance of Duties as a Police Officer on October 23, 2019

The witness testimony and the medical documentation support the Union's claim that Colello's incapacity from work was sustained

1. At the time of the hearing, Colello's accidental disability application was pending before the Berkshire County Retirement Board. The information included in this decision about the results of that application and the medical records contained therein are included in this decision by a joint agreement between the parties.

in the performance of his duties as a police officer for the Town of Sheffield. The evidence demonstrates that the October 23, 2019 incident, where Colello was forced to draw his weapon on a man advancing at him with a skid steer machine and contemplating having to shoot this man to save his life, exacerbated Colello's PTSD to the point where he was unable to continue working as a police officer.

Colello testified credibly setting forth the psychological trauma he suffered from the October 23, 2019 incident. The man in the skid steer was angry and shouting at Colello to get off his property, driving the skid steer with the raised log grabber directly at Colello and refusing to obey his repeated commands to stop. All of these factors caused Colello to fear for his life, and fear that he was going to have to shoot the man to avoid being killed or seriously injured. Colello observed that the man had a thousand-yard stare, the area was dark and littered with fallen logs, muddy and rutted. Colello saw no reasonable means of escaping the oncoming vehicle. In that frightened state of mind, Colello raised his service weapon and decided he would shoot the man if he did not stop before the edge of the house. While the man stopped the machine just prior to passing the edge of the house, the damage was already done. The trauma Colello felt that night exacerbated the PTSD that arose out of the 2010 and 2017 shooting incidents.

The same PTSD symptoms he had experienced after the earlier traumatic events—sleeplessness, irritability, anger, intrusive thoughts, dissociative thoughts, and suicidal ideation—all came back in late 2019 and worsened in early 2020. Colello's wife testified that his mood and behavior changed dramatically in that period, and Colello testified that he thought of killing himself but ultimately kept himself from doing so by looking at a picture of his children.

It was only after Colello hit rock bottom in early 2020 that he was able to see that he needed help. He tried to engage in therapeutic counseling but had a difficult time due to the pandemic. Ultimately, on July 2, 2020, Colello met with Chief Munson and bared his soul, telling him that the October 23, 2019 incident had caused his PTSD to come back with a vengeance and that he needed §111F injury leave. Shortly thereafter, he admitted himself to the LEADER (Law Enforcement, Active Duty, Emergency Responder) program at McLean Hospital.

Town Lacks Evidence to Support Claim That the October 23, 2019 Incident Did Not Incapacitate Colello

The Town offers no evidence to dispute the obvious connection between Colello's work-related injury on October 23, 2019, the PTSD that developed as a result of this work-related injury, and the fact that this PTSD renders him incapable of performing his job as a police officer. Instead, the Town rests its case on a dashcam recording and the fact that it took Colello until July 2, 2020 to notify Chief Munson of his need for §111F leave. Neither piece of evidence supports the Town's claim.

The dashcam recording does not suggest that the incident was not the traumatic event that incapacitated Colello. The recording only illuminates a small portion of the property and does not show the events that took place beyond the lit area. The recording supports Colello's testimony and the supporting medical documentation that state that the October 23, 2019 incident exacerbated Colello's PTSD and rendered him incapacitated from performing his job as a police officer.

Similarly, the Town cannot rely on the fact that it took Colello eight months to notify the Town of his incapacity to deny him his §111F benefits. The fact that Colello was able to return to work for a period of time before the symptoms associated with his PTSD rendered him incapable of performing his work as a police officer has no bearing on his entitlement to §111F benefits. It is not uncommon for the deliberating nature of work-related injury to not manifest itself for some time, allowing the officer to return to work before recognizing his inability to perform the work.

If the Town really wanted to contest Colello's request for §111F leave, it needed to secure a medical opinion supporting its denial. Article XII of the collective bargaining agreement provides the Town with "the right to require any full-time and part-time officers to undergo a standard physical and/or psychological examination related to the essential functions of a police officer." Yet, despite having this right, the Town decided to forego such an examination and rely entirely on non-medical evidence.

Conclusion

In sum, the Arbitrator is not faced with assessing the judgements of doctors equally versed in the diagnosis of PTSD and the root causes of Colello's condition. Rather, the Union has submitted the medical opinion of Dr. Murphy, finding that the October 23, 2019 incident exacerbated Colello's PTSD and rendered him incapacitated for duty, and the Town has failed to submit any medical evidence to justify its denial. For all the reasons stated above, the Arbitrator should find that the Town violated the collective bargaining agreement when it denied MGL c. 41, §111F leave to Colello.

THE EMPLOYER

In determining whether an employee is entitled to injury leave pay under §111F, courts have held that the disabling condition or disease must be traceable directly to a personal injury peculiar to the employment. To be compensable, the harm must arise either from a specific incident or series of incidents at work. It is not surprising that an officer would be aware of this general principle and the resulting need to establish a link between a disabling condition and a specific work incident in order to qualify for injury leave benefits under §111F.

The Town posits that Colello's psychological condition was deteriorating rapidly in the spring of 2020 due to a very unfortunate series of professional and personal events that had unfolded over the years. None of these events, however, can be attributable or traceable directly to any specific event that occurred during the course of his employment with the Town. The Town does not deny that significant portions of his 2020 condition can likely be traced back to the two tragic on duty shootings in which Colello was involved while employed by the Pittsfield Police Department. These events served as the backdrop for when Colello applied for and then regretted accepting a promotion to Sergeant.

Colello described the stresses he encountered in the sergeant's role. As second in command in a small police department, Colello was regularly contacted by officers looking for guidance after hours.

After a month of constantly answering calls and text messages outside his normal work hours, he sought to extricate himself from the position, arguing that he was under paid. After negotiations in which he was promised additional overtime and holiday pay, Colello agreed to stay on as Sergeant. Unfortunately, the situation did not improve and the increased stress in his professional life began to spill over into his personal life.

When it became clear that Colello was not going to receive a $2,000 salary increase following his December 2019 review, Colello had reached his tipping point. In February 2020, he again demanded to return to his role as a patrol officer, asserting that staying in the role was unsustainable and harmful to his mental health. This time the Town accepted the request, moving him back to patrol in early March 2020. The evidence presented clearly establishes that Colello's promotion to sergeant, the resulting stresses it placed on his personal life, and his subsequent return to patrol, acutely affected his already fragile mental state. These personnel moves and the consequences thereof, however, cannot serve as grounds for a compensable injury under §111F. This is true even if they exacerbated a legitimate pre-existing condition caused by an unrelated work injury.

October 23, 2019 Incident Not the Cause of Disability

Determination of the issue of causation of Colello's current disability is an issue of fact. Here, a review of the record, including the cruiser camera footage, the incident report and Colello's hearing testimony, clearly shows that the October 23, 2019 incident was not and could not have been a major cause of Colello's current disability. The hyperbolic language used in the incident report appears to have been utilized for the sole purpose of justifying his decision to draw his service weapon. A review of the cruiser cam footage shows that Colello was never in any danger and was never trapped as he argued in the report and later in the hearing. Instead, the evidence shows that Jordano was seventy-five feet away when Colello drew his weapon. At this distance, no reasonable officer can plausibly say they were in fear of their life.

Given the dearth of evidence establishing a causal link between the October 2019 incident and Colello's disability, the Union attempts to rely on the conclusions in Dr. Murphy's physician statement. In that statement, Dr. Murphy perplexingly concludes that Colello was last able to perform the functions of a police officer on October 24, 2019. Yet when asked at the hearing to list which functions of the job he was unable to perform after October 2019, Colello was unable to credibly deny that he continued to adequately perform those functions through June 2020. Accordingly, Dr. Murphy's opinion should be afforded no weight. The evidence in this case compels the conclusion that this unfortunate injury was not sustained in Colello's performance of his duties as a police officer.

Conclusion

Based on the foregoing reasons, the evidence presented at the hearing established that the Town was justified in denying Colello's claim for injury leave benefits and thus did not violate Article XV of the collective bargaining agreement and requests that the grievance be denied.

OPINION

The issue before me is: Did the Town violate Article XV of the parties' collective bargaining agreement when it denied the grievant injured on-duty benefits in accordance with Massachusetts General Laws Chapter 41, §111F from July 2, 2020, to the present? If so, what shall be the remedy? For all the reasons stated below, the Town violated Article XV when it denied the grievant injured on-duty benefits in accordance with Massachusetts General Laws Chapter 41, §111F. The Town is hereby ordered to make Colello whole for his losses in a manner consistent with this decision.

The Town's denial of §111F benefits was arbitrary and capricious and a violation of the collective bargaining agreement. The Town's denial specifically lacked any medical opinions to support its decision. Instead, the Town relied on a dash cam video that failed to support the Town's hypothesis that the October 23, 2019 incident could not have caused Colello's injury. The Town also made unfounded and unsupported allegations that Colello's promotion to Sergeant and/or home life issues caused his injury; and argued unpersuasively that the length of time it took Colello to request help somehow justified its denial.

Dash Cam

The dash cam footage introduced by the Town was unpersuasive. The footage, taken well after dark, and from a location that did not show any of the actual encounter behind the house between Colello and Jordano, cannot reasonably be used to support a decision to deny §111F benefits. Contrary to the Town's contention, the medical evidence unequivocally demonstrates that the encounter was the cause of the exacerbation of Colello's PTSD and depression that he has been battling since 2011. The Town hired Colello fully aware of his prior on the job shooting incidents, his prior accidental disability retirement, and his subsequent return to work after extensive counseling for his PTSD and depression issues. For the Town to now conclude, without a scintilla of medical evidence, that this encounter did not exacerbate Colello's symptoms is unreasonable.

Other Alleged Causes

Here, the Town relies completely on supposition to support its decision to deny Colello §111F leave and benefits. Unquestionably, Colello was unhappy in his role as a Sergeant. Most of his dissatisfaction centered on his compensation as it related to his increased duties. The Town however, failed to provide any medical evidence that this dissatisfaction was the cause of the exacerbation of Colello's PTSD and depression issues. The Town simply latched on to his dissatisfaction in an attempt to justify its arbitrary, capricious and unreasonable denial.

An even more tenuous argument is the Town's attempt to portray Colello's alleged family issues as the cause of his injury. Here, the Town lacks any basis to reasonably suggest that Colello's family status served as the basis of his injury. Again, this line of reasoning is nothing more than pure conjecture in any attempt to bolster an eligibility decision that is unsupportable.

Finally, the Town's suggestion that because Colello waited until July to seek help, he is automatically being untruthful about the October 23, 2019 incident being the root cause of his injury, is

disingenuous. The evidence is clear that Colello tried to fight and hide his worsening symptoms between October and July, until it became obvious to all involved that he needed further professional assistance. Attempting to continue to work and deal with symptoms before ultimately asking for help does not disqualify an individual from § 111F benefits.

Ultimately, all the medical evidence presented on the record in this case uniformly states that the October 23, 2019 incident with Jordano was the cause of the exacerbation of Colello's symptoms and made him unable to perform his duties as a Sheffield Police Officer. As previously noted, the Town's decision to deny Colello's application for §111F benefits based on unsupported conjecture was arbitrary, capricious and unreasonable and a violation of the collective bargaining agreement.

For all the reasons stated above, the Town violated Article XV when it denied the grievant injured on-duty benefits in accordance with Massachusetts General Laws Chapter 41, §111F. The Town is hereby ordered to make Colello whole for any and all losses associated with its denial of §111F benefits. I will retain jurisdiction of this matter for a period of sixty days while the parties agree on a make whole remedy.

AWARD

The Town violated Article XV when it denied the grievant injured on-duty benefits in accordance with Massachusetts General Laws Chapter 41, §111F. The Town is hereby ordered to make Colello whole for his losses in a manner consistent with this decision.

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