

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT; AND CCMSI,
Appellants,
vs.
SONIA WATTERSON,
Respondent.

No. 89692-COA

FILED

NOV 12 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF REVERSAL

Las Vegas Metropolitan Police Department (LVMPD) and its third-party insurance administrator, CCMSI, appeal a district court order granting a petition for judicial review in a workers' compensation matter. Eighth Judicial District Court, Clark County; Danielle K. Pieper, Judge.

Respondent Sonia Watterson was a corrections officer with LVMPD since 2006 and reported that she contracted an occupationally-related lung disease during the course and scope of her employment in August 2021 after being exposed to and testing positive for COVID-19. On her initial C-4 form, her physician indicated that her occupational disease could not be directly connected as job incurred. Watterson continued experiencing COVID-19 symptoms and sought further medical treatment. LVPMD's third-party administrator, CCMSI, denied her claim on the basis that it did not appear that she sustained a valid, industrial exposure to COVID-19 or any communicable disease. Watterson appealed the determination to a hearing officer, who affirmed the claim denial.

Watterson appealed the hearing officer's decision, arguing that her claim was erroneously denied because she met the requirements of NRS 617.455(5), which provides, in relevant part, that a disease of the lungs is conclusively presumed to have arisen out of and in the course of the employment of a person who has been employed in a full-time continuous, uninterrupted and salaried occupation as a police officer for two years or more before the date of disablement if the disease is diagnosed and causes disablement during the course of that employment. Watterson asserted that she had been employed full-time for over 15 years with LVMPD at the time she filed her claim and her medical records established that she had a lung disease, so she was entitled to a conclusive presumption that her lung disease arose out of and in the course of her employment.

Appellants responded, in relevant part, that Watterson failed to meet the requirements of the statute because COVID-19 is not a compensable disease of the lungs, was not a risk unique to law enforcement in light of the global pandemic, and because her diagnosis did not stem from exposure to heat, smoke, fumes, tear gas or any other noxious gas arising out of and in the course of her employment, as required by NRS 617.455(1). In reply, Watterson contended that she was not required to prove exposure under NRS 617.455(1) because she met the requirements of the conclusive presumption under subsection (5), which did not have the exposure requirement.

An appeals officer affirmed the claim denial and determined that the compensability of Watterson's claim turned on the interpretation of the lung disease statute, NRS 617.455. Under NRS 617.455(1), diseases of the lungs resulting in disability are occupational and compensable if

caused by exposure to heat, smoke, fumes, tear gas or any other noxious gases, arising out of and in the course of the employment of a person who, for two years or more, has been employed as a full-time police officer. Under NRS 617.455(5), a disease of the lungs is conclusively presumed to have arisen out of and in the course of the employment of a person who has been employed in a full-time continuous, uninterrupted and salaried occupation as a police officer for two years or more before the date of disablement if the disease is diagnosed and causes disablement during the course of that employment.

The appeals officer rejected Watterson's argument that subsection (5) should be read separately from the rest of the statute and concluded that provision must be read in conjunction with the other provisions of NRS 617.455. Thus, the officer concluded that NRS 617.455 required a police officer to be exposed to one of the specific substances contained within subsection (1) in order to be eligible for the presumption set forth in subsection (5). In this case, the appeals officer determined, among other things, there was no evidence that Watterson was exposed to any of the substances listed within NRS 617.455(1) and instead she allegedly contracted COVID-19 from interacting with the public and inmates, which did not satisfy the required exposure for compensability.

Watterson subsequently filed a petition for judicial review and argued the appeals officer's conclusion—that NRS 617.455(5) did not exempt her from having to establish that her lung disease was caused by exposure to the statutorily specified substances—was a clear error of law. The parties briefed the matter and, following a hearing, the district court

ultimately granted Watterson's petition for judicial review and reversed the appeals officer's decision.

The district court found that a plain reading of NRS 617.455 did not support the appeals officer's finding that subsection (5) required exposure to the listed substances from subsection (1), and the legislature's intent was to provide Watterson with a conclusive presumption. The court concluded that subsection (1) was simply one avenue for compensability but did not limit compensability under subsection (5). This appeal followed.

On appeal, appellants challenge the district court's grant of Watterson's petition for judicial review. They argue the appeals officer correctly applied the law and determined that Watterson did not meet the requirements for a compensable claim under NRS 617.455, and the district court based its decision on a faulty legal analysis when it determined Watterson did not have to meet the requirements of NRS 617.455(1).

When reviewing an administrative decision, this court's role "is identical to that of the district court: to review the evidence presented to the agency in order to determine whether the agency's decision was arbitrary or capricious and was thus an abuse of the agency's discretion." *United Exposition Serv. Co. v. State Indus. Ins. Sys.*, 109 Nev. 421, 423, 851 P.2d 423, 424 (1993). However, this court reviews questions of law de novo. *Howard v. City of Las Vegas*, 121 Nev. 691, 693, 120 P.3d 410, 411 (2005). Appellate review of a final agency decision is "confined to the record before the agency." *Law Offices of Barry Levinson, P.C. v. Milko*, 124 Nev. 355, 362, 184 P.3d 378, 384 (2008).

Here, Watterson only sought benefits under Chapter 617, and not under Chapters 616A or 616C. The parties dispute whether Watterson's

lung disease must be caused by exposure to heat, smoke, fumes, tear gas or any other noxious gases, as described in NRS 617.455(1), in order to have a compensable lung disease claim under the statute.¹

This argument implicates issues of statutory construction, which presents a question of law that we review de novo. *See Arguello v. Sunset Station, Inc.*, 127 Nev. 365, 368, 252 P.3d 206, 208 (2011). In interpreting a statute, we begin by assessing the statute's plain language. *Webb v. Shull*, 128 Nev. 85, 88-89, 270 P.3d 1266, 1268 (2012). This court interprets statutory schemes to avoid absurd results. *See State, Priv. Investigator's Licensing Bd. v. Tatalovich*, 129 Nev. 588, 590, 309 P.3d 43, 44 (2013). Further, statutes must be considered as a whole and should not be construed in a manner "that would render words or phrases superfluous or make a provision nugatory." *City of Las Vegas v. Munson*, 141 Nev., Adv. Op. 28, 574 P.3d 426, 429 (Ct. App. 2025) (quoting *Law Offices of Barry Levinson*, 124 Nev. at 366, 184 P.3d at 386 (internal quotation marks omitted)). "Under the whole-text canon, we interpret provisions within a common statutory scheme harmoniously with one another in accordance with the general purpose of the statutes." *CCMSI v. Odell*, 141 Nev., Adv. Op. 5, 564 P.3d 454, 457 (Ct. App. 2025) (quoting *Tough Turtle Turf, LLC v. Scott*, 139 Nev. 459, 462, 537 P.3d 883, 886 (2023) (internal quotation marks omitted)).

¹Neither party contends that COVID-19 is a disease of the lung "caused by heat, smoke, fumes, tear gas or noxious gasses" as described in NRS 617.455(1).

NRS 617.455 governs workers' compensation for lung diseases as occupational diseases for police officers and certain other professionals.

NRS 617.455(1) provides

Notwithstanding any other provision of this chapter, diseases of the lungs, resulting in either temporary or permanent disability or death, are occupational diseases and compensable as such under the provisions of this chapter if caused by exposure to heat, smoke, fumes, tear gas or any other noxious gases, arising out of and in the course of the employment of a person who, for 2 years or more, has been:

(a) Employed in this State in a full-time salaried occupation of firefighting or the investigation of arson for the benefit or safety of the public;

(b) Acting as a volunteer firefighter in this State and is entitled to the benefits of chapters 616A to 616D, inclusive, of NRS pursuant to the provisions of NRS 616A.145; or

(c) Employed in a full-time salaried occupation as a police officer in this State.

In addition, NRS 617.455(5) provides, in relevant part, that

A disease of lungs is conclusively presumed to have arisen out of and in the course of the employment of a person who has been employed in a full-time continuous, uninterrupted and salaried occupation as a police officer, firefighter, or arson investigator for 2 years or more before the date of disablement if the disease is diagnosed and causes disablement . . . during the course of that employment.

Appellants argue that subsection (1) sets forth the requirements for a compensable claim for lung disease and that, because

the statutory provisions must be read as a whole, Watterson must show exposure to one of the substances listed in NRS 617.455(1) in order to have a compensable claim for lung disease, regardless of whether that disease is subject to the conclusive presumption set forth in NRS 617.455(5). In response, Watterson argues that subsection (5) creates an independent basis for workers' compensation coverage, separate and distinct from subsection (1), that does not require exposure to any of the enumerated substances described in subsection (1).

Examining NRS 671.455 in whole, as we must under the familiar principles of statutory interpretation, *see Munson*, 141 Nev., Adv. Op. 28, 574 P.3d at 429, we agree with appellants. We first apply the whole-text canon, to construe the individual provisions within NRS 617.455 harmoniously. *See Odell*, 141 Nev., Adv. Op. 5, 564 P.3d at 455, 458 (applying the whole-text canon to NRS 617.457, which governs workers' compensation for heart diseases as occupational diseases, and concluding that "the relevant predisposing conditions for purposes of subsection (11)'s affirmative defense are the conditions that cause the disabling heart disease as described in subsection (1)").

Subsection (1) defines the scope of compensable lung disease claims for police officers and other enumerated professionals under NRS 671.455. Pursuant to subsection (1), a covered employee must have: (1) a "disease of the lung;" (2) that "results in temporary or permanent disability or death;" (3) that is "caused by exposure to heat, smoke, fumes, tear gas or any other noxious gases"; *and* (4) that "aris[es] out of and in the course of . . . employment." NRS 617.455(1). If *all* of those conditions are met, a covered employee has a compensable claim for purposes of NRS 617.455.

See id. (stating that for covered employees, “diseases of the lungs, resulting in either temporary or permanent disability or death, *are occupational diseases and compensable as such under the provisions of this chapter if caused by exposure to heat, smoke, fumes, tear gas or any other noxious gases, arising out of and in the course of the employment*” (emphasis added)).

By contrast, subsection (5) merely establishes a conclusive presumption by which *one* of the requirements for a compensable claim may be met—the requirement that the disease arise “out of and in the course of the employment.” NRS 617.455(5). Subsection (5) makes no mention of compensability; rather, it only addresses when a “disease of the lungs is conclusively presumed to have arisen out of and in the course of the employment” of certain covered employees.² *Id.* Therefore, by its plain language, subsection (5) does not, in and of itself, establish a separately compensable claim for purposes of NRS 617.455.

Instead of construing NRS 617.455 as a whole, comprised of multiple interrelated subparts, Watterson asks this Court to view subsection (5) in isolation and hold that the conclusive presumption language creates a separate avenue for compensation under the statute. However, such a reading would render the limiting language in NRS 617.455(1) superfluous. *See Tough Turtle Turf, LLC*, 139 Nev. at 462, 537 P.3d at 886 (“All provisions are considered together so as not to render any

²We note that the conclusive presumption set forth in NRS 617.455(5) only applies to certain full-time, salaried “police officer[s], firefighter[s] or arson investigator[s]” and does not apply to “volunteer firefighters.”

part of the statute superfluous.”). Under Watterson’s interpretation of the statute, it would be unnecessary for a covered police officer, firefighter, or arson investigator claimant to *ever* establish their lung disease was “caused by exposure to heat, smoke, fumes, tear gas or any other noxious gasses,” because such a claimant, if employed continuously for two years, would already be entitled to compensation under subsection (5). Because such a reading would render subsection (1) nugatory and superfluous since claimants could bypass the exposure requirement and simply obtain benefits under the conclusive presumption provision, we decline to read subsection (5) as a distinct avenue for obtaining benefits for lung disease. *See id.*

In this case, although Watterson was employed as a corrections officer continuously for more than two years before her date of disablement, and thus, was eligible for subsection (5)’s conclusive presumption, she was *also* required to prove that she suffered from a disease of the lungs caused by exposure to heat, smoke, fumes, tear gas or any other noxious gases, in order to show that she had a compensable occupational injury as defined by NRS 617.455(1). The parties do not contend that COVID-19 is a disease of the lung caused by such an exposure. Because Watterson failed to meet that exposure requirement, the appeals officer properly concluded she failed to demonstrate she suffered a compensable lung injury, and the district court erred by granting her petition for judicial review.

In reaching this conclusion, we reject Watterson’s argument that this court should follow *Manwill v. Clark County*, 123 Nev. 238, 162 P.3d 876 (2007), in interpreting the conclusive presumption in NRS 617.455(5). In *Manwill*, the supreme court construed a different statute,

NRS 617.457, which governs workers' compensation for heart diseases as occupational diseases for police officers, firefighters and other professionals. In doing so, *Manwill* held that the conclusive presumption for heart disease set forth in NRS 617.457(1) applies even when a claimant's occupation as a first responder is not a contributing factor to the progression of the disease. *Manwill*, 128 Nev. at 242-43, 162 P.3d at 879-80. As a result, heart disease is deemed compensable so long as the first responder qualifies for benefits under that statute, which only requires a claimant to show (1) heart disease, and (2) the requisite amount of qualifying employment. *Id.* at 243, 162 P.3d at 880.

Watterson argues that the conclusive presumption language in subsection (5) of the lung disease statute, NRS 617.455, is substantially similar to the conclusive presumption language in the heart disease statute.³ Therefore, according to Watterson, under *Manwill*, she need not

³NRS 617.457(1) reads as follows:

Notwithstanding any other provision of this chapter, diseases of the heart of a person who, for 2 years or more, has been employed in a full-time continuous, uninterrupted and salaried occupation as a firefighter, arson investigator or police officer in this State before the date of disablement are conclusively presumed to have arisen out of and in the course of the employment if the disease is diagnosed and causes the disablement:

- (a) During the course of that employment;
- (b) If the person ceases employment before completing 20 years of service as a police officer, firefighter or arson investigator, during the period

show that her disease was caused by exposure to heat, smoke, fumes, tear gas or any other noxious gases because she meets the requirements of subsection (5) and is entitled to the conclusive presumption and occupational disease compensation. However, the holding in *Manwill* does not apply in the instant case because the heart disease statute at issue in *Manwill* does not contain a provision similar to NRS 617.455(1) that limits the types of heart disease that are compensable for covered employees with the requisite amount of qualifying employment.⁴ As such, we are unpersuaded by Watterson's argument in this respect.

after separation from employment which is equal to the number of years worked; or

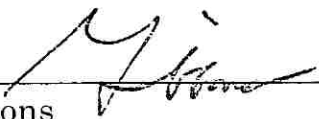
(c) If the person ceases employment after completing 20 years or more of service as a police officer, firefighter or arson investigator, at any time during the person's life.

⁴In contrast to the lung disease statute, which expressly limits the types of compensable lung diseases for full-time firefighters, full-time police officers, *and* volunteer firefighters, *see* NRS 617.455(1), the limitation on compensable heart diseases in NRS 617.457 applies only to volunteer firefighters, *see* NRS 617.457(3) ("Notwithstanding any other provision of this chapter, diseases of the heart, resulting in either temporary or permanent disability or death, *are occupational diseases and compensable as such under the provisions of this chapter if* caused by extreme overexertion in times of stress or danger and a causal relationship can be shown by competent evidence that the disability or death arose out of and was caused by the performance of duties as a volunteer firefighter by a person entitled to the benefits of chapters 616A to 616D, inclusive, of NRS pursuant to the provisions of NRS 616A.145 and who, for 5 years or more, has served continuously as a volunteer firefighter in this State by continuously maintaining an active status on the roster of a volunteer fire department." (emphasis added)).

In sum, we conclude the district court erred by granting Watterson's petition for judicial review because it misinterpreted NRS 617.455, and the appeals officer correctly determined that Watterson was required to show exposure to one of the specific substances set forth in NRS 617.455(1) in order to be eligible for the conclusive presumption provided by NRS 617.455(5). We therefore

ORDER the judgment of the district court REVERSED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Danielle K. Pieper, District Judge
Janet Trost, Settlement Judge
Hooks Meng & Clement
GGRM Law Firm
Eighth District Court Clerk