MISSOURI COURT OF APPEALS
WESTERN DISTRICT

HEATHER M. BASS,

Appellant-Respondent

v.

POLICE RETIREMENT SYSTEM OF KANSAS CITY, MISSOURI,

Respondent-Appellant

DOCKET NUMBER WD82700 Consolidated with WD82704

DATE: November 23, 2021

Appeal From:

Circuit Court of Jackson County, MO
The Honorable Charles H. McKenzie, Judge

Appellate Judges:

Division Two
Mark D. Pfeiffer, Presiding Judge, Karen King Mitchell, Judge, Anthony Rex Gabbert, Judge

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Attorneys:

Michelle A. Rebman, Kansas City, MO,
Counsel for Appellant-Respondent

Attorneys:

Susan Ford Robertson, Kansas City, MO,
Counsel for Respondent-Appellant

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

HEATHER M. BASS, Appellant-Respondent,
v.
POLICE RETIREMENT SYSTEM OF KANSAS CITY, MISSOURI, Respondent-Appellant.

WD82700 (consolidated with WD82704) **Jackson County**

Before Division Two Judges: Mark D. Pfeiffer, Presiding Judge, Karen King Mitchell, Judge, and Anthony Rex Gabbert, Judge

Heather Bass appeals and the Police Retirement System of Kansas City, Missouri cross-appeals the judgment of the Jackson County Circuit Court granting summary judgment in partial favor of each party. Bass raises four points on appeal complaining the court erred in determining the offset amount, in denying her request to amend her petition, and in denying prejudgment interest. The Police Retirement System of Kansas City, Missouri raises one point on appeal complaining the trial court erred in not including attorney's fees and costs in the offset calculation.

AFFIRMED.

Division Two holds:

(1) Where section 86.1190, RSMo, allots interest and investment income between an officer and the city, a workers' compensation award is offset against the funds provided by the city which includes interest and investment income allotted to those funds.

(2) Where a motion for summary judgment's statement of uncontroverted fact does not address all elements of a claim, the matter has not been tried by consent in the summary judgment pleadings.

(3) Where an actuarial valuation report states that there is insufficient evidence to provide a credible analysis but recommends the policy not be changed, the policy is not arbitrary and capricious.

(4) Where a party did not allege a cause of action for breach of contract or breach of fiduciary duty, the party is not entitled to prejudgment interest under those causes of action.

(5) Where precedent is on point and still good law, this court will not decline to follow it.

Opinion by: Anthony Rex Gabbert, Judge Date: November 23, 2021

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