



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PENSIONS AND BENEFITS
P. O. Box 295

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PHILIP D. MURPHY
Governor

TAHESHA L. WAY
Lt. Governor

ELIZABETH MAHER MUOIO
State Treasurer

JOHN D. MEGARIOTIS
Acting Director

January 12, 2024

Sent by email to: [REDACTED]

Paul Suozzo
[REDACTED]

RE: TPAF [REDACTED]

FINAL ADMINISTRATIVE DETERMINATION

Dear Mr. Suozzo:

At its meeting on December 7, 2023, the Board of Trustees (Board) of the Teachers' Pension and Annuity Fund (TPAF) considered your appeal of the Board's decision denying your request for a retroactive retirement date. The Board originally denied your request for a retroactive retirement date at its meeting of September 7, 2023. You filed a timely appeal of the Board's decision on October 27, 2023.¹

After careful consideration, the Board affirmed its prior decision, and finding no genuine issue of material fact in dispute, denied your request for an administrative hearing. Thereafter, the Board directed the undersigned to draft a Final Administrative Determination, which was reviewed and approved at its meeting of January 11, 2024.

FINDINGS OF FACT

The record before the Board establishes that on February 28, 2003, the Division of Pensions and Benefits (Division) sent you a letter informing you of the date of your last contribution to your pension account. The letter included the following statement:

¹ You sent a second letter appealing the Board's decision on November 17, 2023.

“At the time of your last contribution you had 10 or more years of service and are eligible to apply for a vested retirement benefit. The qualifications for the various types of retirement are described below. Your retirement benefit is not automatic. You must submit an Application for Retirement Allowance before any benefit can begin. In addition, the effective date of the retirement cannot be earlier than the date you file the application and there are no retroactive payments for periods prior to the retirement date.”

[(Emphasis in original.)]

On July 2, 2018, the Division sent you another letter, informing you of your eligibility for Deferred retirement benefits. The letter included the following statements:

Our records indicate that you are eligible for a deferred retirement benefit commencing the first of the month after you turn 60 years of age.

...

In order to apply for this benefit you must register for the Member Benefit Online System (MBOS) which is available through our website at www.state.nj.us/treasury/pensions/.

...

You are required to file an application through MBOS. The earliest effective date of your retirement benefit will be the first of the month following the birthday that you turn age 60 provided your MBOS application is filed with the Division of Pensions and Benefits prior to that date.

On February 16, 2023, you contacted the Division's Office of Client Services (Client Services) by phone to inquire about receiving your retirement benefits. The counselor informed you of the July 2, 2018 letter and advised that you were eligible for a pension benefit as of May 1, 2019, the first of the month following your 60th birthday. In response to your inquiry about whether the benefit increases the longer you wait to collect, the counselor advised that Deferred retirement benefits do not increase in value and that there is no advantage to waiting. You were then informed of the next available retirement date, i.e. March 1, 2023, and instructed on how to file for the retirement benefit through MBOS.

Thereafter, you were sent an Estimate of Retirement Benefits. The estimate included the following statement:

You must file an Application for Retirement with the Division of Pensions and Benefits before your retirement date.

The following day you contacted Client Services to request retroactive retirement benefits. The counselor also informed you of the Division's July 2, 2018, letter, which notified you of your eligibility for Deferred retirement benefits and the steps necessary to receive your benefit. It was at this time that you advised the counselor that you did not receive the letter. You were then informed of the next available retirement date and instructed on how to file for the retirement benefit through MBOS.

On February 24, 2023, via your Member Benefits Online System (MBOS) account, you submitted an Application for Retirement Allowance for a Service retirement benefit effective March 1, 2023, under the Maximum Option. As required by law, a certified letter dated February 27, 2023 was sent to your spouse, [REDACTED] notifying her that you selected the Maximum Option.

On April 13, 2023, the Board approved your application for Service retirement benefits effective March 1, 2023, under the Maximum Option.

On May 12, 2023, you wrote to the Division requesting a retroactive retirement date of May 1, 2019. In your letter you assert that the Division did not inform you "in a proper manner" via certified mail to ensure that you received the July 2, 2018 letter. You claim that had the Division notified you via certified mail, as they noticed your wife regarding your selection of the Maximum Option, that you would have been "aware that it was an important matter that should be attended to."

In response to the aforementioned request, an administrative denial letter was issued from Jayne Ehrmann, Supervisor, Retirement Bureau, dated May 19, 2023, stating that pursuant to N.J.A.C. 17:2-6.1(a),

Applications for retirement must be made on forms required by the System. Such forms must be completed in all respects and filed with the Division before the requested date of retirement. A member's retirement application becomes effective on the first of the month following receipt of application unless a future retirement date is requested.

Ms. Ehrmann also noted that your retirement application was filed on February 24, 2023 with an effective date of March 1, 2023. She further noted that you went off payroll on June 30, 2001, and that a letter was sent informing you of your eligibility for a retirement benefit. Ms. Ehrmann further noted that the notice was returned as undeliverable. She advised that that when a member has a change of address, the member is required to notify the Division.

Nevertheless, on July 2, 2018, a second letter was sent to your current address.

On July 31, 2023, the Division received your letter appealing the administrative denial and the Board noted the reasons stated therein. In said letter, you reiterated your former claims and added that because the 2018 letter was "sent general delivery" and was not seen by you, you were left unaware of any need to take action.

Although you allege that you did not receive the July 2, 2018 letter, New Jersey courts have consistently "recognized a presumption that mail properly addressed, stamped, and posted was received by the party to whom it was addressed." [REDACTED], 146 N.J. 614 (1996).

The Board considered your request for retroactive retirement benefits at its meeting of September 7, 2023. At the meeting, the Board found that pursuant to N.J.S.A 18A:66-43 and N.J.A.C. 17:3-6.1, to obtain a retirement date of May 1, 2019, you had to have filed a retirement application with the Division prior to that date. This did not occur. Therefore, the Board affirmed the Division's decision and denied your request for a retroactive retirement date. On or about October 27, 2023, you filed a timely appeal of the Board's decision and requested that the matter be transferred to the Office of Administrative Law as a contested case.

At its meeting on December 6, 2023, the Board considered your appeal, affirmed its prior decision, and finding no genuine issue of material fact in dispute, denied your request for an administrative hearing.

CONCLUSIONS OF LAW

The issue before the Board is whether you are eligible for a retroactive retirement date. At the time your employment ended, you were 43 years of age and had 12 years and 9 months of service. N.J.S.A. 18A:66-43, states, in pertinent part:

Retirement for service shall be as follows: (a) A person who was a member before the effective date [Nov. 1, 2008] of P.L.2008, c.89 and has attained 60 years of age may retire on a service retirement allowance by filing with the retirement system a written application, duly attested, stating at which time subsequent to the execution and filing thereof he desires to be retired. The board of trustees shall retire him at the time specified or at such other time within 1 month after the date so specified as the board finds advisable.

[(emphasis supplied).]

Further, N.J.A.C. 17:3-6.1 states, in pertinent part:

(a) Applications for retirement must be made over the Internet, using the online forms required by the Fund through a member's secure account established through the Member Benefits Online System (MBOS). Such forms must be completed in all respects and filed with the Division on or before the requested date of retirement. Applications for retirement can be filed no more than one year in advance, except that a member whose TPAF-eligible employment has ended may file for deferred retirement at any time after the employment has ended. A member's retirement application becomes effective on the first of the month following receipt of the application unless a future date is requested. Members enrolled at multiple TPAF locations on or before May 21, 2010, who have not had a pension reporting period without pay (break in service) after May 21, 2010, pursuant to the provisions of N.J.S.A. 18A:66-4, must retire from employment in all covered positions before a retirement shall become effective.

[(emphasis supplied).]

As mentioned previously, you became eligible to begin receiving a retirement benefit as of May 1, 2019, the first of the month after you turned 60 years of age. However, the receipt of a retirement benefit effective May 1, 2019, would have required that you filed an application with the retirement system before that date.

Your application for Service² retirement benefit with an effective date of March 1, 2023 was not received by the Division until February 24, 2023. Your application was approved by the Board at its meeting on April 13, 2023. Although you were *eligible* for retirement benefits on May 1, 2019, you did not have a retirement application on file at that time. As a result, the Board denied your request for a retroactive retirement date.

As noted above, the Board has considered your written submission and all documentation in the record. Because this matter does not entail any disputed questions of fact, the Board was able to reach its findings of fact and conclusions of law on the basis of the retirement system's enabling statutes and without the need for an administrative hearing. Accordingly, this correspondence shall constitute the Final Administrative Determination of the Board of Trustees of the Teachers' Pension and Annuity Fund.

You have the right to appeal this final administrative action to the Superior Court of New Jersey, Appellate Division, within 45 days of the date of this letter in accordance with the Rules Governing the Courts of the State of New Jersey.

All appeals should be directed to:

Superior Court of New Jersey
Appellate Division
Attn: Court Clerk
PO Box 006
Trenton, NJ 08625

Sincerely,

² You were able to file for a Service retirement because you were over 60 years of age.

Paul Suozzo
January 12, 2024
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A handwritten signature in black ink, appearing to read "Saretta Dudley", enclosed within a thin black rectangular border.

Saretta Dudley, Secretary
Board of Trustees
Teachers' Pension and Annuity Fund

G-4/SD
C: J. Ehrmann (ET)