

The Commonwealth of Massachusetts
Public Employee Retirement Administration Commission
John W. McCormack Building, Room 1101
One Ashburton Place Boston, MA 02108
(617) 727-9380

MEMORANDUM

TO: All Retirement Boards

FROM: Robert F. Stalnaker, Executive Director

RE: City of Lynn v. Labor Relations Commission

DATE: August 21, 1997

Attached is the July 17, 1997 Appeals Court Decision in the above-referenced case. The Appeals Court overturns a decision of the Labor Relations Commission and holds that a department head (the fire chief) may file an application for involuntary superannuation retirement even while the member's appeal of his denied application for accidental disability retirement is pending at CRAB. This decision is both noteworthy and consistent with PERAC's prior interpretation of the provisions of G.L. c. 32. The Labor Relations Commission had held that since the chief's action impacted the compensation of the employee at issue and was a deviation from past practice, the chief's ability to file an involuntary retirement application had to be the subject of collective bargaining. The Appeals Court rejects this reasoning and holds that the language of G.L. c. 32, § 16(1) provides "a specific narrow statutory mandate" which authorizes the employer to act without being subject to collective bargaining. Thus, the Appeals Court ruling allows an employer/department head to file an application for involuntary retirement on behalf of a member who has an appeal pending of a previously filed application. The department head may do so without being required to collectively bargain with respect to the right to do so. Boards may wish to pass this decision along to the appropriate personnel officers and/or department heads.

RFS/ds
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