

**COMMONWEALTH OF MASSACHUSETTS**

**Middlesex, ss.**

**Division of Administrative Law Appeals**

**Mary Bellavance,**  
Petitioner,

No. CR-25-0071

Dated: March 21, 2025

v.

**Peabody Retirement Board,**  
Respondent.

**ORDER OF DISMISSAL**

This is an appeal from a decision of the Peabody Retirement Board (board) adjusting the amount of petitioner Mary Bellavance’s retirement allowance. The board moves to dismiss the appeal as untimely. The petitioner’s deadline to oppose the motion has expired.

An appeal from a retirement board’s decision must be filed “within fifteen days of notification of [the] . . . decision.” G.L. c. 32, § 16(4). *See generally Bailey v. State Bd. of Ret.*, No. CR-07-724, 2012 WL 13406339, at \*2 (Contributory Ret. App. Bd. Nov. 16, 2012). The date appearing on the board’s decision here is indistinct, but Ms. Bellavance states that she received it on January 13, 2025. A timely appeal from Ms. Bellavance thus needed to be postmarked no later than Tuesday, January 28, 2025. *See* 801 C.M.R. § 1.01(4)(a).

The date appearing in the body of Ms. Bellavance’s notice of appeal and in the postmark of her mailing envelope is Friday, January 31, 2025, i.e., three days late. It is a harsh result for an appeal to be defeated by a few days of belatedness. But the statutory deadline is “jurisdictional,” meaning that whenever it is missed, the tribunal is “prohibited from taking up [the] appeal as a matter of law.” *Oxford v. Lawrence Ret. Bd.*, No. CR-18-5, 2023 WL 11806166 (Contributory Ret. App. Bd. May 17, 2023). *See also Briggs v. Essex Reg’l Ret. Bd.*, No. CR-19-182, 2020 WL 14009730, at \*2 (Contributory Ret. App. Bd. Aug. 10, 2020). The only action

that a tribunal faced with an untimely appeal is allowed to take is “dismissing the cause.” *Phone Recovery Servs., LLC v. Verizon of New England, Inc.*, 480 Mass. 224, 230 (2018).

In view of the foregoing, it is hereby ORDERED that the motion to dismiss is ALLOWED and the appeal is DISMISSED.

Division of Administrative Law Appeals

/s/ Yakov Malkiel

Yakov Malkiel

Administrative Magistrate