

**COMMONWEALTH OF MASSACHUSETTS**

**Middlesex, ss.**

**Division of Administrative Law Appeals**

**Keith Buday,**  
Petitioner,

No. CR-25-0282

Dated: August 1, 2025

v.

**Massachusetts Teachers' Retirement  
System,**  
Respondent.

**ORDER OF DISMISSAL**

Petitioner Keith Buday appeals from a decision of the Massachusetts Teachers' Retirement System (MTRS) declining to treat a portion of his pay as "regular compensation" for retirement purposes. A prior order instructed Mr. Buday to show cause why the appeal should not be dismissed for lack of jurisdiction and failure to state a claim. Mr. Buday has filed a responsive memorandum and several exhibits.

Mr. Buday's case may involve serious questions on the merits. Apparently, after Mr. Buday attempted to resign, his employer awarded him a three-year contract and a 6.5% raise. The issue presented is whether the 6.5% raise was within Mr. Buday's regular compensation for retirement purposes. In some respects, Mr. Buday's circumstances parallel those of *Berte v. Massachusetts Teachers' Retirement System*, No. CR-14-627, 2021 WL 12298077 (Contributory Ret. App. Bd. Nov. 18, 2021), where a raise designed to forestall the member's resignation was categorized as a non-regular "payment made as a result of the employer having knowledge of the member's retirement." G.L. c. 32, § 1. But there are distinctions, too: most significantly, the

raise in *Berte* delayed the member's retirement only by the limited duration of a specific project; it appears that Mr. Buday could have remained in his position and at his new salary indefinitely.<sup>1</sup>

Regardless, the merits are not reachable here. A jurisdictional statutory deadline requires appeals from the decisions of the retirement boards to be filed "within fifteen days of notification of [the] . . . decision." G.L. c. 32, § 16(4). *See Oxford v. Lawrence Ret. Bd.*, No. CR-18-5, 2023 WL 11806166 (Contributory Ret. App. Bd. May 17, 2023). Mr. Buday's fifteen-day deadline began on April 15, 2025. *See generally Bailey v. State Bd. of Ret.*, No. CR-07-724, 2012 WL 13406339, at \*2 (Contributory Ret. App. Bd. Nov. 16, 2012). His appeal arrived at DALA by fax on May 2, 2025, i.e., two days late. Two days of lateness may not seem momentous. The delay may or may not have unfairly prejudiced MTRS. But when a tribunal fails to acquire jurisdiction, it lacks the power to extend filing deadlines by any span of time. *See Commonwealth v. Claudio*, 96 Mass. App. Ct. 787, 792 (2020). An appeal that misses a jurisdictional deadline must be dismissed on that basis. *See Phone Recovery Servs. v. Verizon of N. Eng.*, 480 Mass. 224, 230 (2018).

In view of the foregoing, it is hereby ORDERED that this appeal is DISMISSED. To the extent that any critical information about the timeliness of Mr. Buday's appeal was omitted from

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<sup>1</sup> In its classic applications, the rule about payments "made as a result of the employer having knowledge of the member's retirement," § 1, focuses on sums paid "to induce early retirement" or "to influence the amount of the [retirement] benefits." *Boston Ass'n of Sch. Adm'rs & Sup'rs v. Boston Ret. Bd.*, 383 Mass. 336, 341-42 (1981). *See Fletcher v. Public Emp. Ret. Admin. Comm'n*, No. CR-11-118, 2016 WL 11956812 (Contributory Ret. App. Bd. Mar. 31, 2016). *See also Tousignant v. Massachusetts Teachers' Ret. Syst.*, No. CR-09-451, 2016 WL 11956796 (Contributory Ret. App. Bd. Mar. 31, 2016); *Ryser v. Massachusetts Teachers' Ret. Syst.*, No. CR-11-298, 2016 WL 11956817 (Contributory Ret. App. Bd. Mar. 31, 2016). But *Berte* extends the rule to additional scenarios.

his most recent filing by inadvertence, he may file a prompt motion for reconsideration under 801 C.M.R. § 1.01(7)(l).

Division of Administrative Law Appeals

/s/ Yakov Malkiel

Yakov Malkiel

Administrative Magistrate