

**Commonwealth of Massachusetts
Contributory Retirement Appeal Board**

Robert G. Cantin,

Petitioner-Appellant

v.

Massachusetts Teachers' Retirement System,

Respondent-Appellee.

CR-23-470

DECISION

Petitioner/Appellant Robert Cantin (“Mr. Cantin”) appeals from a decision of an administrative magistrate of the Division of Administrative Law Appeals (“DALA”), which dismissed his appeal. Mr. Cantin appealed to DALA from a decision of the Respondent/Appellee Massachusetts Teachers’ Retirement System (“MTRS”) declining his request to be granted a second opportunity to purchase his prior vocational employment as creditable service pursuant to G.L. c. 32, § 4(1)(h)(½).

After Mr. Cantin filed his appeal at DALA, the DALA magistrate issued an order to show cause why Mr. Cantin’s appeal should not be dismissed for failure to state a claim on which relief may be granted. Mr. Cantin responded to DALA’s order. Nevertheless, by decision dated January 19, 2024, citing the applicable statutory language, the DALA magistrate dismissed his appeal. Mr. Cantin filed a timely appeal to us.¹ For the reasons that follow, we agree with the DALA

¹ Mr. Cantin filed an appeal with the Contributory Retirement Appeal Board (“CRAB”) via regular mail. Though his letter of appeal was dated January 31, 2024 and postmarked February 1, 2024, CRAB did not receive this appeal until March 4, 2024. However, CRAB follows the postmark rule. *Cook v. Worcester Regional Retirement Board*, No. CR-09-974 (Contributory Retirement Appeal Board Aug. 28, 2013) (CRAB considers an appeal filed when it is postmarked at a United States Post Office facility). As a result, we have determined that Mr. Cantin’s appeal was timely filed as required by G.L. c. 32, § 16(4).

magistrate that Mr. Cantin cannot be granted a second opportunity to purchase his vocational employment as creditable service and **affirm** the DALA decision.

The MTRS is an administrative agency. Its authority to act is defined and limited by statute. *Early v. State Board of Retirement*, 420 Mass. 836, 839 (1995). Specifically, G.L. c. 32, § 4(1)(h)(½) permits an otherwise-eligible member-in-service of a G.L. c. 32 retirement system who is a teacher to purchase up to three years of creditable service for prior work experience in the occupational field in which he or she later became a teacher. G.L. c. 32, § 4(1)(h)(½). However, the statute sets forth a timeline for accomplishing such a service purchase. The statute provides, in pertinent part,

Members in service of a retirement system who make application for this creditable service shall be notified by the retirement board of their eligibility for such creditable service, and, if they are eligible, shall also be notified by the retirement board that they have the following options: (1) to purchase the service in a lump sum within 180 days of the notice, or (2) to enter into an installment agreement within 180 days of the notice to pay for the service.

Mr. Cantin does not dispute that he originally applied to purchase his prior vocational employment as creditable service in or around 2008 or that the MTRS informed him at that time that he was eligible to make that service purchase.² He also does not dispute that he failed to either complete the service purchase or enter into an installment agreement to do so within 180 days of that notification because of other expenses he had incurred at the time.³

Mr. Cantin argues instead that in 2023 the MTRS erroneously decided not to provide him with a second opportunity to purchase his vocational employment as creditable service because it does provide such an opportunity when members seek to purchase other types of creditable service. He relies, in part, on an MTRS form from its website entitled, “Request for an updated invoice for a prior service purchase”.⁴

² Exhibit 7.

³ *Id.*

⁴ Exhibit 1.

Mr. Cantin's argument fails in light of the requirements specific to the purchase of vocational employment as creditable service. As the DALA magistrate noted, the specific language of G.L. c. 32, § 4(1)(h)(½) requires that a member who is determined to be eligible to purchase vocational employment as creditable service do so (or enter into an installment agreement to do so) within 180 days of being notified of eligibility to make this purchase, without exception. *Narcizo v. Massachusetts Teachers' Retirement System*, No. CR-21-0064 (Division of Admin. Law App. June 30, 2023) (rejecting argument that unexpected financial obligations should excuse the requirement to purchase eligible service within 180 days); *Challinor v. Massachusetts Teachers' Retirement System*, No. CR-08-0402 (Division of Admin. Law App. July 24, 2009 (same, noting that G.L. c. 32, § 4(1)(h)(½) "does not provide for any exceptions due to life's unforeseen circumstances") Mr. Cantin, by his own admission, did not complete his service purchase in 2008, and he is foreclosed from doing so now.

Not all service purchases permitted by G.L. c. 32 require that a member must complete a service purchase or enter into an installment agreement to do so within a specific time frame.⁵ The MTRS form relied upon by Mr. Cantin applies only to those service purchases without the temporal limitations imposed by G.L. c. 32, § 4(1)(h)(½).⁶ As such, the MTRS properly omitted the purchase of vocational employment from the form that its members may use to request an updated service purchase invoice. By the specific language of G.L. c. 32, § 4(1)(h)(½), the purchase of vocational employment as creditable service is limited to a one-time opportunity. Unfortunately for Mr. Cantin, he did not avail himself of that opportunity when he had the chance to do so in 2008. The retirement law does not permit him the second opportunity that he seeks to purchase this service now.

⁵ General Laws c. 32, § 4(1)(s) does contain a similar requirement, in that otherwise-eligible members of the Massachusetts State Employees' Retirement System who seek to purchase contract service must do so (or enter into an installment agreement to do so) within 180 days of being notified of their eligibility to make that type of service purchase.

⁶ *See, generally*, G.L. c. 32, §§ 3(4), 3(4A), 3(5), 3(6)(c), 3(8)(b), 4(1)(f ½), 4(1)(h), 4(1)(p) and 4(1)(r).

To the extent that DALA construed Mr. Cantin's request as one for equitable relief, DALA properly determined that neither DALA nor CRAB is empowered to grant it. *Petrillo v. Public Employee Retirement Administration*, No. CR-92-731 (Contributory Retirement App. Board, Oct. 22, 1993) ("While we may empathize with the Appellant's situation, we have been unable to locate any statutory or case law indicating that this Board has the authority to employ an equitable remedy in the fact of specific statutory language contrary to the position fostered by the Appellant.") See, e.g., *Clothier v. Massachusetts Teachers' Retirement System*, 79 Mass. App. Ct. 143, 146 (2010). (a retirement board does not have the authority to disregard the retirement law's requirements for reasons of equity).

For all of the foregoing reasons, Mr. Cantin's appeal did not state a claim on which relief might have been granted. DALA properly dismissed his appeal.

SO ORDERED.

CONTRIBUTORY RETIREMENT APPEAL BOARD,

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