

**COMMONWEALTH OF MASSACHUSETTS  
DIVISION OF ADMINISTRATIVE LAW APPEALS**

**Francis Coan,**  
Petitioner

v.

Docket No. CR-24-0323

**Boston Retirement System,**  
Respondent

**Appearance for Petitioner:**

Francis Coan

**Appearance for Respondent:**

Natacha Thomas, Esq.  
General Counsel

**Administrative Magistrate:**

Kenneth Bresler

**SUMMARY OF DECISION**

Boston Retirement System (BRS) correctly capped a retiree's accidental disability retirement benefits at 75% because he had breaks in service.

**DECISION**

The petitioner, Francis Coan, appeals the capping at 75% of his accidental disability retirement benefits.

I held a hearing on August 26, 2025, which I recorded. Mr. Coan represented himself and testified. BRS called Michelle Lau, a BRS manager, as a witness. I admitted eight exhibits for the petitioner and seven exhibits for the respondent.

Instead of submitting a brief, Mr. Coan closed orally at the end of the hearing, adding to

his statement at the beginning of the hearing. BRS submitted a post-hearing brief in October 2025.

### **Findings of Fact**

1. Mr. Coan was employed by the City of Boston from November 12, 1986 until October 20, 1989, when he was laid off because of the city's budget. (Pet. prehearing memorandum; Coan testimony)

2. After being laid off in 1989, Mr. Coan worked for various city and state agencies, but not continuously, until May 12, 1993, when he joined the Boston Fire Department. (Pet. prehearing memorandum)

3. Mr. Coan eventually rose to become Boston fire captain and retired from that position. (Appeal letter)

4. On April 21, 2024, BRS approved Mr. Coan's application for accidental disability retirement benefits. (Appeal letter; see also Resp. Ex. 6)

5. On May 10, 2024, BRS created a Retirement Option Selection Form showing that Mr. Coan would receive 75% of his retirement benefits. (Appeal letter)

6. On May 13, 2024, Mr. Coan learned about the 75% calculation. (Appeal letter)

7. In response to this information, Mr. Coan visited BRS, where Michael Collins, BRS's Principal Administrative Assistant, told him that he could appeal the 75% calculation to the Division of Administrative Law Appeals (DALA). (Coan testimony)

8. On May 15, 2024, Mr. Coan wrote to DALA, asking to "initiate an appeals process." (Appeal letter)

9. On May 17, 2024, BRS completed a Retirement Calculation Worksheet for Mr. Coan,

showing that he had had a break in service from October 21, 1989 to December 5, 1992; and from April 18, 1992 to May 11, 1993. In addition, he had suspensions in December 2016 and July 2020.<sup>1</sup> (Resp. Ex. 1)

10. At the hearing on August 26, 2025, I realized that my file did not contain documentation of an action by BRS and advice to Mr. Coan of his appeal rights. Since neither party had such documentation with them, I asked the parties if they could locate a document to that effect.

11. On September 9, 2025, I emailed BRS, asking whether it had been able to locate anything that resembled or served as a denial letter. In the same email, I addressed the parties:

1. Without a letter from BRS to Mr. Coan capping his disability retirement benefit and advising him of his appeal rights, I do not believe I have jurisdiction to hear this appeal.

2. I also believe that if BRS issues a letter capping Mr. Coan's disability retirement benefit and advising him of his appeal rights, or Mr. Coan asks BRS to uncap his benefit, the process can begin to establish DALA's jurisdiction. If neither party objects, I can consider the August 26 hearing, even though it came before the valid appeal.

12. On September 15, 2025, BRS emailed Mr. Coan:

Our records reflect that you had a break in service between 10/21/1989 - 12/05/1993 and 04/18/1993 - 05/11/1993. Consequently, pursuant to BRS' supplemental regulations dating September 18, 2013, for the purpose of M.G.L. c. 32, § 7(2)(a)(ii) your ADR is being capped at 75% because you had an "unauthorized leave of absence without pay consisting of 31, or more, consecutive days since January 1, 1988."

The email then advised Mr. Coan of his appeal rights. (BRS email to Coan, Sept. 15, 2025)

---

<sup>1</sup> I do not know what the suspensions were and if they're significant to this case. When I asked BRS, I did not get a usable answer. (Email exchange between DALA and BRS, April 24 and 30, 2026)

13. On September 18, 2025, Mr. Coan timely appealed by emailing to DALApleadings@mass.gov his May 15, 2024 appeal. (Coan email to DALApleadings@mass.gov, Sept. 18, 2025)

### Discussion

#### G.L. c. 32, §7(2)(a)(ii)

G.L. c. 32, §7 governs accidental disability retirement benefits. Section 7(2)(a)(ii), provides that

for any employee who was not a member in service on or before January 1, 1988 or who has not been continuously a member in service since that date,

accidental disability retirement benefits “shall not exceed 75 per cent” of the regular compensation that the employee received before they became disabled.

The cases about the statute do not explain the reason for the exemption for certain employees. A plaintiff before the Appeals Court posited that the Legislation intended to exempt then-current employees. *Ouellette v. Contributory Retirement Appeal Board*, 86 Mass. App. Ct. 396, 401 n.7 (2014).

In any event, Mr. Coan was a member in service before January 1, 1988, but he was not a member in service continuously since that date, through no fault or lack of desire on his part. He was laid off in 1989, and worked intermittently for various city and state agencies until May 12, 1993, when he joined the Boston Fire Department. (Pet. prehearing memorandum; Coan testimony) Therefore, the 75% cap applies to him. *See Ouellette*, 86 Mass. App. Ct. 396; *Jacqueline Ouelette v. Haverhill Retirement Board and Public Employee Retirement Administration Commission*, CR-08-219 (DALA Aug. 11, 2009); *David Paterson v. State Board of*

*Retirement*, CR-20-0324(DALA Jan. 20, 2023); *Charles Allen and Newton Retirement Board v. Public Employee Retirement Administration Commission*, CR-09-119 (DALA Feb. 10, 2012).

BRS's supplementary regulation

In its prehearing memorandum, BRS invoked G.L. c. 32, §7(2)(a)(ii), but not its supplementary regulation related to the statute, even though BRS attached the regulation to the memorandum as an exhibit.

In its denial of September 15, 2025, which came after the prehearing memorandum, BRS relied on its supplementary regulation. In its post-hearing brief, BRS relied on both G.L. c. 32, §7(2)(a)(ii) and its supplementary regulation.

BRS's supplementary regulation, dated September 18, 2013, reads as follows:

For the purpose of M.G.L. c. 32, § 7(2)(a)(ii) only, the following phrase shall have the following meaning:

*"has not been continuously a member in service"* shall mean that the 75% limitation on an accidental disability retirement allowance of any member, with a membership date prior to January 1, 1988, is applicable, only if:

- the member had an unauthorized leave of absence without pay consisting of 31, or more, consecutive days, since January 1, 1988, but specifically not including any department approved or authorized leaves of absence.

For the purposes of M.G.L. ch. 32, § 7(2)(a)(ii) only, any unauthorized leave, or leaves, of absence without pay consisting of 30, or less, days does not constitute a severance of continuous employment. Thus, any member with a membership date prior to January 1, 1988, who had an unauthorized leave, or leaves, of absence without pay of 30, or less, days since January 1, 1988, shall **not** be subject to the 75% limitation on an accidental disability retirement allowance.

(Ex. 7) (emphasis in original)

The last paragraph of the regulation, an explanatory paragraph, appears to state the following: The statute's words "not been continuously a member in service since" January 1,

1988 includes a member's being absent without pay or authorization for 31 or more days. Thus, a disability retiree's benefits are capped at 75% if they became a member after January 1, 1988 (according to the statute), or have not been continuously a member in service since that date (according to the statute), or, as an employee, were absent without pay or authorization for 31 or more days (according to the supplementary regulation).

The supplementary regulation is not relevant here. It refers to an unauthorized leave. Mr. Coan did not leave his job without authorization from his employer. He was laid off twice at the direction of his employer. He could not stay at his job.

G.L. c. 32, §7(2)(a)(ii) governs and applies to this case. Under the statute, Mr. Coan's disability retirement benefit is capped at 75%. The supplementary regulation does not govern or apply to this case. But the statute is sufficient to support BRS's 75% calculation.

DALA lacks equitable powers

In his prepared statement at the hearing, Mr. Coan said;

The case distinguishes itself from similar cases in that the break in service was completely involuntary, and certainly not for any cause. It was not only out of my control, but also financially devastating, despite many arduous attempts to regain employment with the City.

....

The strict application of the law is very unfair, as it singles me out, as well as other employees who fell victim to budgetary layoffs. I do not believe the intent of the law was to punish employees who found themselves aggrieved not once, but twice, first finding themselves out of work, and second, by penalizing their pension rights.

I am merely seeking some equitable relief....[T]his 75% cap on my pension should not be applied in this particular case.

The intent of the statute is unclear or unknown. However, no one, including Mr. Coan, is being singled out, punished, or treated unfairly. His benefits are capped at 75%; that is all.

The statute has no exception for members whose breaks in service were due to layoffs or were otherwise involuntary. Interpreting the law less than strictly, as Mr. Coan requests, can lead to unfairness. Mr. Coan has asked for equitable relief, but “DALA lacks equitable powers.” *Daniel Brophy v. Plymouth County Retirement System*, CR-16-410, CR-17-021, CR-20-0643 (DALA April 15, 2022).

### **Conclusion and Order**

The Boston Retirement System’s calculation that Mr. Coan’s disability retirement benefits be capped at 75% of his regular compensation is upheld.

Dated: May 8, 2026

/s/ Kenneth Bresler

---

Kenneth Bresler  
Administrative Magistrate  
DIVISION OF ADMINISTRATIVE LAW APPEALS  
14 Summer St., 4th Floor  
Malden, MA 02148  
Tel: (781) 397-4700  
[www.mass.gov/dala](http://www.mass.gov/dala)