

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Jennifer Crosby,
Petitioner,

No. CR-24-0096

Dated: May 30, 2025

v.

Boston Retirement System,
Respondent.

ORDER OF DISMISSAL

This is petitioner Jennifer Crosby's appeal from a decision of respondent the Boston Retirement System (board) denying her application to retire for accidental disability. *See* G.L. c. 32, § 7.

Upon lodging her appeal, Ms. Crosby filed a flurry of pro se motions and memoranda. It may be that Ms. Crosby possesses a substantively colorable appellate claim. But the papers she chose to file presented redundant, immaterial, antagonistic narratives unsupported by helpful legal authorities. *See* standard rule 7(c).¹ Ms. Crosby did not follow binding regulations about the contents of motions, the manner of filing, and the service of copies. *See* standard rules 4(a), 5(f), 7(a)(1). She ignored serial orders requiring the parties to make their submissions by email with copies to each other. *See* standard rule 4(a).

None of the foregoing problems was on track to trigger a dismissal of Ms. Crosby's appeal or any other consequences adverse to her. A February 2025 order allowed certain of Ms. Crosby's motions, including her multiple motions to expedite. A March 2025 notice scheduled a prehearing conference for May 1, 2025 and an evidentiary hearing for June 24, 2025.

¹ In accordance with G.L. c. 30A, § 9, the "standard rules" in this context are the provisions of 801 C.M.R. § 1.01.

Thereafter, Ms. Crosby changed course, asking for the proceedings to be delayed indefinitely so that she could consult her lawyer. The lawyer named in Ms. Crosby's papers then filed a notice stating that her engagement with Ms. Crosby "had concluded." With this development in mind, I ruled on April 24, 2025 that the prehearing conference would proceed on schedule. I noted that it was "time for the parties to speak in person and to move ahead toward tackling the merits," adding that at the conference, Ms. Crosby would be able to renew her request for a reasonable postponement of the hearing.

Ms. Crosby did not appear for the May 1 prehearing conference. The board's attorney attended, tried to reach Ms. Crosby by telephone and by text message, but did not succeed.

After the conference, I issued an order requiring Ms. Crosby to show cause why her appeal should not be dismissed for failure to prosecute.² The order explained that parties seeking to litigate their claims with reasonable diligence must attend scheduled hearings and conferences. *See Kelly v. Kelly*, 3 Mass. App. Ct. 702, 702 (1975); *Koltin v. Longwood Sec. Servs.*, 76 Mass. App. Ct. 1120 (2010) (unpublished memorandum opinion). The order observed that the law strongly prefers for disputes to be resolved on the merits, but that applicable rules and orders must not be ignorable "with impunity." *Greenleaf v. Massachusetts Bay Transp. Auth.*, 22 Mass. App. Ct. 426, 429-30 (1986). *See Ivy v. Boston Med. Ctr.*, 97 Mass. App. Ct. 1117 (2020) (unpublished memorandum opinion). The order was sent to Ms. Crosby both by email and by paper mail; neither transmission was returned as undeliverable.

² The order asked Ms. Crosby more specifically to address the following points: "(a) Why she failed to appear for [the prehearing] conference; (b) Whether she will attend future conferences and hearings; (c) Whether she will comply in the future with the tribunal's instructions; (d) Whether she specifically understands that she is required to receive orders by email and to file papers by email, with a copy to the board's attorney; (e) Whether her efforts to arrange for representation are ongoing, and if so, when she expects them to be complete."

The order to show cause established a fourteen-day deadline for Ms. Crosby's response. Ms. Crosby filed nothing within that timeframe. She did not request additional time. *See* standard rule 4(e). When the docket clerk telephoned Ms. Crosby to solicit an update, Ms. Crosby did not answer. Additional weeks have gone by since the expiration of Ms. Crosby's deadline, still with no word from her. Dismissal is now warranted based on Ms. Crosby's serial failures "to respond to notices or correspondence," "to comply with orders of the Presiding Officer," and to act as a litigant who intends "to continue with the prosecution of a claim." Standard rule 7(g)(2).

In view of the foregoing, it is hereby ORDERED that this appeal is DISMISSED.

Division of Administrative Law Appeals

/s/ Yakov Malkiel

Yakov Malkiel

Administrative Magistrate