

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals
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Brittany Croteau
Petitioner,

Docket No: CR-24-0727

v.

Date: February 14, 2025

Massachusetts Teachers' Retirement System
Respondent.

ORDER OF DISMISSAL

The Respondent, the Massachusetts Teachers' Retirement System ("MTRS"), denied the Petitioner's request to purchase prior creditable for work at the Hillsborough County Public Schools because it said that, in those years, the Petitioner was enrolled in a retirement plan from another state. G.L. c. 32, § 4(1)(p) states that "no credit shall be allowed . . . for any service for which the member shall be entitled to receive a retirement allowance, annuity or pension from any other source." "The purpose of the limitation is to prevent double-dipping by receiving two employer-funded retirement benefits for the same work." *Richmond v. MTRS*, No. CR-16-102, at *7 (DALA Feb. 15, 2019). MTRS's appealable letter was dated November 15, 2022.

G.L. c. 32 § 16(4) gives aggrieved parties 15 days from receipt of a retirement board's decision to file their appeal. Even assuming it took three days for the letter to arrive, 801 Code of Mass. Regs. § 1.01(4)(c), the Petitioner should have received the letter by November 18, 2022. The

Petitioner was then required to file her appeal by December 5, 2022.¹ The file contains an appeal letter dated December 7, 2022 in which the Petitioner acknowledges the letter “is beyond the (15) day deadline.” Moreover, DALA has no record of having received that letter. Instead, the first record of a letter of appeal is December 24, 2022. In response to an order to show cause, the Petitioner says she faxed her appeal letter on December 8, 2022, but has no documentation to prove that. Even assuming that is true—and again, DALA has no record of it—that was still beyond the statutory deadline for filing an appeal.

The time limits set out in Chapter 32 for such appeals are jurisdictional. *Lambert v. Massachusetts Teachers’ Ret. Bd.*, CR-09-0074 (CRAB Feb. 17, 2012). Thus, if an appeal to DALA is filed more than 15 days after receipt of the retirement board’s decision, it must be dismissed for lack of subject matter jurisdiction.

Accordingly, the Petitioner’s appeal is **dismissed** as untimely.

DIVISION OF ADMINISTRATIVE LAW APPEALS

Eric Tennen

Eric Tennen
Administrative Magistrate

¹ 15 days from November 18, 2022 would have been December 3, 2022, which was a Saturday. The Petitioner would have had to file her appeal by the next business day, Monday December 5, 2022. 801 Code of Mass. Regs. § 1.01 (4)(d).,