

**COMMONWEALTH OF MASSACHUSETTS
CONTRIBUTORY RETIREMENT APPEAL BOARD**

KAREN DRAKE

Petitioner-Appellant

v.

MASSACHUSETTS TEACHERS' RETIREMENT SYSTEM,

Respondent-Appellee.

CR-23-0119

DECISION

On July 5, 2024 the Division of Administrative Law Appeals (“DALA”) upheld the decision of the Massachusetts Teachers’ Retirement System (MTRS) to deny membership to petitioner Karen Drake. On August 6, 2024, Ms. Drake emailed a notice of objection to the July 5, 2024 DALA decision. On August 7, 2024, MTRS filed a Motion to Dismiss For Lack of Jurisdiction.

We issued to Petitioner an Order to Show Cause on August 7, 2024 noting that CRAB’s “governing statute, G.L. c. 32, § 16(4) provides that the DALA magistrate’s decision “shall be final . . . *unless within fifteen days after such decision . . . either party objects to such decision, in writing*, to the contributory retirement appeal board” *Id.* (emphasis added)” and requested Petitioner provide the Board “any and all reasons why this appeal should not be dismissed as untimely”.

Petitioner filed responses to our Order by email on August 12, 2024 and September 5, 2024. Ms. Drake explained that she was on vacation from July 6-16, 2024 when the July 5, 2024 DALA decision was mailed. She noted that she responded as promptly as possible. Further, she makes an equitable remedy argument, contending that the time constraints imposed to appeal a DALA decision that was mailed to her while she was out of town on vacation to be unreasonable.

As CRAB recognized in our Order to Show Cause of August 7, 2024, “if an appeal to CRAB from DALA is filed more than fifteen (15) days after the date of the DALA decision, it must be dismissed.” Fifteen days from July 5, 2024 is Saturday, July 20, 2024. Thus, the deadline for Ms. Drake to file her notice of objection to the DALA decision was the following business day, Monday, July 22, 2024. While she explained that she was on vacation from July 6-16, 2024, Ms. Drake had until July 22, 2024 to file her objection. However, she did not do so until August 6, 2024. Ms. Drake does not cite to any authority that would allow CRAB to review an appeal commenced outside of this jurisdictional period.

Here, Ms. Drake seeks a form of equitable relief we are unable to provide. As sympathetic as we may be to the circumstances presented in the Petitioner’s filing, we must be mindful that attempts to institute judicial appeals “after expiration of the period limited by a statute” are “repugnant to the procedural scheme.” *Schulte v. Director of the Div. of Employment Sec.*, 369 Mass. 74, 79 (1975). In addition, we must recognize that “time limits have particular significance in the context of administrative appeals due to the extremely large volume of such cases. Retirement boards need to know with reasonable certainty which cases are still subject to appeal in order to anticipate their potential liability for benefits.” *Jane Seibecker v. Teachers’ Retirement Syst.*, CR-14-773 (CRAB July 25, 2017) citing *McLaughlin v. Contributory Retirement Appeal Bd.*, No. SUCV2012-04354, Memorandum of Decision and Order (Suffolk Superior Ct. Jan. 13, 2014) (CRAB has no jurisdiction to hear late appeal).¹

As with all appeals not timely filed, CRAB is jurisdictionally bound to enforce a fifteen-day deadline beginning with the date of the DALA decision and may not ignore the plain language of the statute. “We interpret the language of the statute ‘in accordance with its plain meaning, and if the language is clear and unambiguous, it is conclusive as

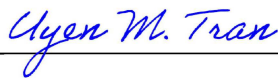
¹ See *Sears, Roebuck & Co. v. State Tax Comm’n*, 370 Mass. 127, 130 (1976) (board lacked jurisdiction to hear late appeal where time limit specified by statute); *Hanchett v. State Bd. of Retirement*, CR-07-1071 at 15 (DALA, Sept. 2, 2011) at 13-15 (no jurisdiction where attorney mistakenly sent appeal letter to retirement board, which did not forward it to DALA until three months later); cf. *Bowles v. Russell*, 551 U.S. 205, 209, 214 (2007) (where time limit was set by statute, Federal courts had no jurisdiction to allow appeal outside statutory limits despite clerk’s error in informing counsel of deadline).

to the intent of the legislature,” *New England Auto Max, Inc. v. Hanley*, 494 Mass. 87, 91 (2024) (Statutes are to be interpreted in accordance with their plain words).

While we commend Ms. Drake for her years of service and sympathize with her circumstances, DALA and CRAB simply do not have the authority to provide equitable relief where it contravenes the retirement law. *See Early v. State Board of Retirement*, 420 Mass. 836 (1995) (DALA 1992) (*aff’d* CRAB 1993) and *Petrillo v. Public Employee Retirement Administration*, CR-92-731 (DALA 1992) (*aff’d* CRAB 1993). This appeal must be dismissed as untimely.

SO ORDERED.

CONTRIBUTORY RETIREMENT APPEAL BOARD



Uyen M. Tran
Assistant Attorney General
Chair
Attorney General’s Appointee



Nicolle M. Allen, Esq.
Governor’s Appointee



Patrick M. Charles, Esq.
Public Employee Retirement Administration Commission
Appointee

Date: October 30, 2024