

**COMMONWEALTH OF MASSACHUSETTS  
CONTRIBUTORY RETIREMENT APPEAL BOARD**

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**KIM DWYER,**

**Petitioner-Appellee**

**v.**

**MASSACHUSETTS TEACHERS' RETIREMENT SYSTEM,**

**Respondent-Appellant**

**CR-23-0459**

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**DECISION ON ORDER TO SHOW CAUSE  
WHY APPEAL SHOULD NOT  
BE DISMISSED AS INTERLOCUTORY**

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Respondent Massachusetts Teachers' Retirement System (MTRS) appeals from an Order of an administrative magistrate of the Division of Administrative Law Appeals (DALA), denying its Motion for Summary Judgment and ordered an evidentiary hearing to determine certain facts relating to Petitioner Kim Dwyer's eligibility to join the Retirement*Plus* benefit program. On March 15, 2024, the Contributory Retirement Appeal Board (CRAB) issued an Order To Show Cause Why Appeal Should Not Be Dismissed as Interlocutory. MTRS filed a response to the Order To Show Cause on March 29, 2024. Petitioner Kim Dwyer provided a response by electronic mail on March 28, 2024. She explained that she was inactive during the permitted period elect into the Retirement*Plus* program was allowed and did not receive notice of this opportunity. She stated that she moved in July 2001 and provided DALA with evidence of this move. She believed that information regarding the Retirement*Plus* program may have been mailed to the wrong address.

MTRS urges CRAB to not dismiss this appeal as interlocutory but argues that a decision based on the submissions is appropriate where the issue on appeal is purely a question of law. Specifically, MTRS explains that the provision<sup>1</sup> at issue does not contemplate a notice

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<sup>1</sup> G.L. c. 32, § 5(4)(i).

requirement. Consequently, an evidentiary hearing to examine the details surrounding the issue of notice is not necessary or required. Furthermore, MTRS contends that addressing the implications of *Davey*<sup>2</sup> as ordered by the magistrate is also a question of law not necessitating an evidentiary hearing. Accordingly, it contends that a decision without an evidentiary hearing is most appropriate here.

When considering this appeal, we are mindful that magistrates have significant discretion to seek out further information not readily apparent in the record so that he "applie[s] correct principles of law to the facts found." *Vinal v. Contributory Retirement Appeal Bd.*, 13 Mass. App. Ct. 85, 92 (1982). Effective judicial review is made possible by administrative decisions that are based on substantial evidence, as well as reasoned findings. *Ibid.* This ensures that an administrative decision is not prejudiced by determinations "unsupported by substantial evidence." G.L. c. 30A, § 14(7)(e). As we noted, "[i]nadequate written findings and analyses preventing meaningful judicial review of other administrative agencies' decisions have resulted in remands for clarification." *Fender v. Contributory Retirement Appeal Bd.*, 72 Mass. App. Ct. 755, n.10. citing *Caswell v. Licensing Commn. for Brockton*, 387 Mass. 864, 876-877 (1983); *Costello v. Department of Pub. Utils.*, 391 Mass. 527, 537, 542 (1984); *Foster from Gloucester, Inc. v. City Council of Gloucester*, 10 Mass. App. Ct. 284, 294-296 (1980); *Mayor of Revere v. Civil Serv. Commn.*, 31 Mass. App. Ct. 315, 323, 327 (1991). It is for this reason that CRAB has strongly disfavored interlocutory appeals of a magistrate's order.<sup>3</sup> The magistrate, in this instance, determined the most appropriate course for this appeal is to "further develop and probe the parties' respective positions" through an evidentiary hearing. While MTRS argues that CRAB is only tasked to determine purely legal questions and thus, effective judicial review would not be prejudiced here, it is not for CRAB to determine for a magistrate what is required to maintain the integrity of the administrative review process.

MTRS's objection to the magistrate's Order Denying Summary Decision and scheduling an evidentiary hearing is hereby dismissed as interlocutory. ***Dismiss.***

SO ORDERED.

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<sup>2</sup> *Davey v. MTRS*, No. CR-01-914 (CRAB Jan. 31, 2003).

<sup>3</sup> See CRAB's Order Dismissing Appeal Without Prejudice, *Daley v. Plymouth Retirement Bd. & PERAC*, CR-11-0441 (June 8, 2013) ("Such an interlocutory order is not appealable to CRAB; under our governing statute it is DALA's decision on the appeal from the [retirement board] that may be appealed to CRAB. G.L. c. 32, § 16(4).").

CONTRIBUTORY RETIREMENT APPEAL BOARD

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Date: May 1, 2024