

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Roberta Fillmore,
Petitioner,

No. CR-23-0358

Dated: August 13, 2024

v.

**Massachusetts Teachers' Retirement
System,**
Respondent.

ORDER ON MOTION FOR RECONSIDERATION

Petitioner Roberta Fillmore is a teacher. She brought this appeal to challenge a decision of the Massachusetts Teachers' Retirement System (MTRS) determining that she is not entitled to be enrolled in the benefits program known as Retirement Plus. G.L. c. 32, § 5(4)(i). On January 5, 2024, the appeal was dismissed for failure to state a claim. *Fillmore v. MTRS*, No. CR-23-358, 2024 WL 277245 (DALA Jan. 5, 2024). On June 26, 2024, Ms. Fillmore moved for reconsideration.

In order to participate in Retirement Plus, Ms. Fillmore was required to file an enrollment form on or before July 1, 2001. Acts 2000, c. 114, § 2. In her submissions on appeal, including an affidavit, Ms. Fillmore asserted that she had provided a timely enrollment form to her school's personnel office. The order of dismissal concluded that this theory did not state a claim upon which relief can be granted, because an "election" is effective only if it is delivered to MTRS itself. *See, e.g.*, Acts 2004, c. 149, § 397.

Ms. Fillmore's motion for reconsideration relies on newly discovered evidence. She explains that she has located a copy of her original enrollment form. That form bears the date June 13, 2001, which is also written into a preprinted line asking for the "[d]ate I mailed my Election Form to [MTRS]"

As Ms. Fillmore acknowledges, motions for reconsideration in this tribunal are governed by standard rule 7(l).¹ That rule allows the parties to seek reconsideration “[a]fter a decision has been rendered and before the expiration of the time for filing . . . [an] appeal.” The time to file an appeal from the order of dismissal expired fifteen days after the order issued, i.e., in late January 2024. *See* G.L. c. 32, § 16(4). The current motion is approximately five months late.

For good cause shown, presiding officers may extend deadlines other than those “prescribed by statute.” Standard rule 4(e). *See generally Commonwealth v. Claudio*, 96 Mass. App. Ct. 787, 791-92 (2020). It is not obvious whether this directive authorizes extensions of rule 7(l) deadlines, which formally flow from the standard rules, but effectively incorporate statutorily prescribed appeal periods. *See Deschene v. Salem Ret. Bd.*, No. CR-14-72, at *4 (CRAB July 23, 2018); *Bihl-Spada v. MTRS*, No. CR-20-100 (DALA Sept. 29, 2023); *Kinsman v. State Bd. of Ret.*, No. CR-07-470, at *3 (DALA Feb. 26, 2010).

On the assumption that Ms. Fillmore’s deadline is extendable, she has not shown good cause for an extension. Most importantly, she does not demonstrate or claim that she could not have discovered her 2001 enrollment form while her appeal was still pending. The finality of an administrative proceeding serves both fairness and efficiency. Parties therefore must develop and present their evidence in a timely manner; administrative disputes ought not to be left unsettled indefinitely. *See* standard rule 7(k); *Dunner v. Boston Ret. Bd.*, No. CR-12-552, at *3 (CRAB Dec. 2, 2015). *Cf. Cahaly v. Benistar Prop. Exch. Tr. Co.*, 451 Mass. 343, 361, 366 (2008); *Kelly v. Kelly*, 12 Mass. App. Ct. 937, 938 (1981); *United States v. Forbes*, 790 F.3d 403, 408-09 (2d Cir. 2015).

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.

Further, it is not at all clear whether the result would change if Ms. Fillmore were to relitigate the case with the benefit of her new piece of evidence. Given the considerations articulated in MTRS's brief, the inferences that may be drawn from that new document are questionable; and they run up against formidable hurdles, namely the law's presumptions that the mails operate properly, *Commonwealth v. Barboza*, 68 Mass. App. Ct. 180, 185 (2007), and that public agencies maintain sound records, *City of Newburyport v. Thurlow*, 324 Mass. 40, 44 (1949).

In view of the foregoing, it is hereby ORDERED that the motion for reconsideration is DENIED.²

Division of Administrative Law Appeals

/s/ Yakov Malkiel

Yakov Malkiel

Administrative Magistrate

² For its part, MTRS retains the discretion to reexamine Ms. Fillmore's case upon her request. If such a request were to disclose an error in MTRS's records, that error would be correctable under G.L. c. 32, § 20(5)(c)(2). If MTRS were to decline to reconsider Ms. Fillmore's case, that decision would be appealable and reviewable on appeal for abuse of discretion. See *Fernandez v. State Bd. of Ret.*, No. CR-15-124, at *3 (CRAB Dec. 21, 2016); *Boyle v. Pittsfield Ret. Bd.*, No. CR-02-587, at *6 (CRAB June 12, 2009); *Sullivan v. MTRS*, No. CR-21-200, at *3 (DALA Oct. 3, 2022).