

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Lynne Girouard,
Petitioner,

No. CR-25-0030

Dated: April 25, 2025

v.

Massachusetts Teachers' Retirement System,
Respondent.

ORDER GRANTING SUMMARY DECISION

This is an appeal from a decision of the Massachusetts Teachers' Retirement System (MTRS) denying petitioner Lynne Girouard's request to participate in the benefits program known as Retirement Plus. *See* G.L. c. 32, § 5(4). MTRS moves for summary decision.

A prior order advised Ms. Girouard that her failure to oppose MTRS's motion may be construed as an agreement that the motion is meritorious. *Compare Bray & Gillespie Mgmt. LLC v. Lexington Ins. Co.*, 527 F. Supp. 2d 1355, 1371 (M.D. Fla. 2007), *with Jones v. Providence Pub. Sch.*, No. 23-1407, 2024 WL 1128034 (1st Cir. Mar. 11, 2024) (unpublished judgment). Ms. Girouard has filed nothing further. It therefore appears that no live dispute is being prosecuted. *See* 801 C.M.R. § 1.01(7)(g)(2); *Fannie Mae v. Branch*, 494 Mass. 343, 347-48 (2024).

MTRS's motion is also meritorious in substance. Retirement Plus came into effect in 2001. Individuals who were then teachers and MTRS members could join Retirement Plus by filing an enrollment document during the first half of 2001. *See* Acts 2000, c. 114, § 2. There is no dispute that Ms. Girouard did not satisfy this condition. Belated enrollments into Retirement Plus are generally impermissible. *See Roussin v. Boston Ret. Syst.*, No. CR-23-28, 2024 WL 2956657, at *2 (Contributory Ret. App. Bd. June 3, 2024); *In the Matter of Enrollment in Retirement Plus*, No. CR-21-369, 2023 WL 5332723 (Div. Admin. Law App. Aug. 7, 2023).

Ms. Girouard’s claim on appeal is that she withdrew her accumulated retirement contributions from MTRS in approximately 1990 and therefore was not an active or inactive member in 2001. *See* G.L. c. 32, § 3(1)(a)(ii). Essentially for the reasons stated in MTRS’s brief, Ms. Girouard has not demonstrated a reasonable expectation of prevailing on this point of fact. *See Goudreau v. Nikas*, 98 Mass. App. Ct. 266, 269-70 (2020). According to MTRS records evidenced by MTRS’s exhibits—even if indirectly—Ms. Girouard has remained a member of the system since 1989, with no intervening withdrawal of contributions. MTRS’s records are entitled to a presumption of regularity. *See City of Newburyport v. Thurlow*, 324 Mass. 40, 44 (1949).

The presumption of regularity is not conclusive, but Ms. Girouard has shown no reasonable expectation of rebutting it. She says that she “took the money after leaving [her original] job.” That assertion, unsupported by record documents, is too “vague, non-specific and general” to carry weight. *See Benson v. Massachusetts Gen. Hosp.*, 49 Mass. App. Ct. 530, 533 n.3 (2000). MTRS also offers a plausible explanation for Ms. Girouard’s recollection, i.e., that at some point, she did receive a *partial* refund of certain *overpaid* contributions.

In view of the foregoing, it is ORDERED that MTRS’s motion for summary decision is ALLOWED. Summary decision is hereby entered to the effect that MTRS’s decision is AFFIRMED.

Division of Administrative Law Appeals

/s/ Yakov Malkiel

Yakov Malkiel

Administrative Magistrate