

GLOUCESTER RETIREMENT BOARD,
Petitioner-Appellant
v.
PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION,
Respondent-Appellant.
CR-21-217

DECISION

Petitioner Gloucester Retirement Board (GRB) and Respondent Public Employee Retirement Administration Commission (PERAC) jointly appeal from a decision of an administrative magistrate of the Division of Administrative Law Appeals (DALA) that DALA did not have jurisdiction to overturn or affirm PERAC’s advisory opinion that the compensatory leave Gloucester Superior Police Officers received should count as regular compensation. Because none of the Officers in question had retired, the Magistrate reasoned, there was no specific amount of money GRB believed it had to pay a particular Officer, and hence, the Board had not suffered any harm and could not qualify for standing as an “aggrieved” party.¹ The DALA Magistrate issued his Order of Dismissal on June 10, 2022. GRB and PERAC filed timely appeals to us.

After giving careful consideration to all the evidence in the record and the arguments presented by the parties, we incorporate the DALA Order of Dismissal by reference. For the reasons discussed in the Order, we affirm, adding the following comments.

The contracts of Superior Police Officers in the Gloucester Retirement System allow them to receive compensatory leave “as an alternative to paid overtime” in exchange for “work beyond 40 hours in a given week.”² Subject to the Police Chief’s approval (although “the benefit” cannot “be unreasonably denied”), a Superior Officer can bank and use up to ten days of compensatory leave in a given calendar year at their discretion.³ Superior Officers “paid through

¹ M.G.L c.32, s.16(4).

² Exhibit 6, p.2.

³ Ibid.

grants” can only access this benefit if there is “sufficient appropriation in the grant budget.”⁴ In 2006, PERAC stated in an Opinion Letter that police officers’ compensatory leave should be considered regular compensation—a position it affirmed in the context of the compensatory leave provided in the Gloucester Superior Officers’ Collective Bargaining Agreements in 2014, 2020, and 2021 Opinion Letters.⁵ After GRB appealed PERAC’s advisory determination, the DALA magistrate dismissed the appeal for lack of jurisdiction given that none of the officers in question had yet retired.

Our review of the record demonstrates that the magistrate’s decision that PERAC Opinion Letters are not appealable is supported by the Court cases and CRAB/DALA decisions cited in the Order. The magistrate stated that it has been determined that Opinion Letters from PERAC are not appealable decisions. *Marlborough Ret. Bd. v. PERAC*, CR-19-14 (DALA Apr. 9, 2021); *Bretschneider v. PERAC*, CR-09-701 (DALA Nov. 13, 2009). He also explained that this proposition is highlighted by decisions cited by the parties. See *Haverhill Ret. Syst. v. CRAB*, 82 Mass. App. Ct. 129 (2012); *Stoneham Ret. Bd. v. PERAC*, CR-12-548 (CRAB, Ma 20, 2019); *Winchester Ret. Bd. v. PERAC*, CR-19-267 (DALA Dec. 11, 2020). We conclude his interpretation and discussion of these cases to be reasonable and find no basis to overturn his decision. Accordingly, we agree that DALA and CRAB have no jurisdiction to hear this appeal, and we make no determinations as to the underlying merits of this case.

The DALA Order of Dismissal is affirmed. *Affirm.*

SO ORDERED.

CONTRIBUTORY RETIREMENT APPEAL BOARD



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

⁴ Ibid.

⁵ Exhibits 2, 5, 8, 10. In a 2014 letter, PERAC incorrectly stated that it believed that the Superior Officers’ compensatory leave was not regular compensation, but, after a follow-up letter from GRB asking it to confirm this, noted that this statement was erroneous and reiterated its 2006 position that compensatory leave was regular compensation.

Nicolle M. Allen

Nicolle M. Allen, Esq.
Governor's Appointee

Did not participate

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

Date: May 28, 2025