

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Amanda King,
Petitioner,

No. CR-24-0532

Dated: October 11, 2024

v.

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

ORDER GRANTING SUMMARY DECISION

This is an appeal from a decision of the Massachusetts Teachers' Retirement System (MTRS) to exclude petitioner Amanda King from the benefits program known as Retirement Plus. *See* G.L. c. 32, § 5(4). MTRS moves for summary decision. Ms. King's affidavit and exhibits are construed as an opposition to the motion.

Summary decision is appropriate where "there is no genuine issue of fact . . . and [the moving party] is entitled to prevail as a matter of law." 801 C.M.R. § 1.01(7)(h). An issue of fact is "genuine" if the non-moving party possesses a "reasonable expectation" of prevailing on it. *See Goudreau v. Nikas*, 98 Mass. App. Ct. 266, 269-70 (2020). The evidence at this juncture must be analyzed in the light most favorable to the non-moving party. *See Caitlin v. Bd. of Reg. of Architects*, 414 Mass. 1 (1992).

With these standards in mind, the following facts either are beyond genuine dispute or are taken as true in Ms. King's favor. Ms. King is a teacher. She became a member of MTRS in 1998, providing MTRS with an address on Atlantic Avenue, Rockport. In October 2000, Ms. King took an unpaid maternity leave. By that time, she was already residing at an address on Pigeon Hill Street, Rockport. She did not provide her updated address to MTRS until some years later. She returned from her maternity leave in September 2002.

While Ms. King was on maternity leave and residing on Pigeon Hill Street, the Legislature established the Retirement Plus program. *See* Acts 2000, c. 114, § 2. The governing statute gave individuals who were already then teachers a “window” from January to June of 2001 to enroll in the program. *Id.* MTRS mailed multiple flyers about Retirement Plus to its active and inactive members. Ms. King did not return an enrollment document.

In 2024, Ms. King asked MTRS to enroll her in Retirement Plus. MTRS declined; this appeal followed.

There is no question that Ms. King missed her original enrollment period of January-June 2001. Members in such circumstances generally cannot join Retirement Plus belatedly. *See Roussin v. Boston Ret. Syst.*, No. CR-23-28, 2024 WL 2956657, at *2 (CRAB June 3, 2024). A narrow exception to this rule covers teachers who: (a) were “inactive” MTRS members during the original enrollment period; *and* (b) received no “notice” about Retirement Plus’s enactment. This rule follows from *Davey v. Massachusetts Teachers’ Ret. Syst.*, No. CR-01-914 (CRAB Jan. 31, 2003), and *Simonet v. Massachusetts Teachers’ Ret. Syst.*, No. CR-18-164, 2021 WL 12298083 (CRAB Oct. 28, 2021).¹

By virtue of her unpaid maternity leave in 2000-2002, Ms. King satisfies the “inactivity” prong of the *Davey* test. *See* G.L. c. 32, § 3(1)(a). The critical question is whether she received the requisite “notice” about Retirement Plus. The precise contours of the notice required in this context may not yet be fully developed. *See Dwyer v. Massachusetts Teachers’ Ret. Syst.*, No. CR-23-459, 2024 WL 4345195, at *3-4 (DALA Sept. 13, 2024). But the specific problem

¹ MTRS contends that *Davey* was overruled by *Hood v. Massachusetts Teachers’ Ret. Syst.*, No. CR-15-534, 2021 WL 12298081 (CRAB Mar. 22, 2021). But the teacher in *Hood* was a member in service during 2001. *Simonet* continues to treat *Davey* as good law with respect to teachers whose membership in 2001 was inactive.

presented here has already been resolved. Ms. King did not receive MTRS's mailers about Retirement Plus because she was no longer residing at the address that she had given to MTRS. The Contributory Retirement Appeal Board has rejected a claim to deficient notice in such circumstances, stating: "[The teacher] was responsible for providing an updated address to [MTRS through his employer] at all times." *Roldan-Flores v. Massachusetts Teachers' Ret. Syst.*, No. CR-18-311, 2020 WL 14009727, at *1 (CRAB Dec. 10, 2020). *See also Medina v. Holyoke Ret. Bd.*, No. CR-11-438, 2014 WL 13121818, at *1 n.2 (CRAB Oct. 9, 2014). It follows that Ms. King is not entitled to enroll in Retirement Plus belatedly under *Davey*.

In view of the foregoing, it is ORDERED that MTRS's motion for summary decision is ALLOWED. Summary decision is hereby entered in MTRS's favor.

Division of Administrative Law Appeals

/s/ Yakov Malkiel

Yakov Malkiel

Administrative Magistrate