

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Ralph Linehan,
Petitioner

v.

Docket No. CR-21-0395
Date Issued: July 7, 2023

State Board of Retirement,
Respondent

Appearance for Petitioner:

Ralph Linehan, *Pro Se*

Appearance for Respondent:

Brendan E. McGough, Esq.
State Board of Retirement
One Winter Street, 8th Floor
Boston, MA 02108

Administrative Magistrate:

Timothy M Pomarole, Esq.

SUMMARY OF DECISION

The late member unambiguously designated Mr. Thomas Best as the beneficiary of her retirement benefits. A member must file “a prescribed form” with the Board before her death to change her beneficiary. G.L. c. 32, § 11(2)(c). The Petitioner has failed to present evidence showing that the member took any steps to do so. The Board’s determination that Mr. Best is the late member’s beneficiary is therefore affirmed.

DECISION

This appeal concerns a decision by the State Board of Retirement (the Board) to pay Thomas Best all funds on account with the Massachusetts State Employees’ Retirement System (MSERS) as late member Nicole Ferrara’s named beneficiary.

This case is submitted on the written submissions pursuant to 801 CMR 1.01(10)(c).

Mr. Linehan's written submission dated April 25, 2022 is marked for identification as "Exhibit A." The Board's memorandum is marked for identification as "Exhibit B." I have admitted the exhibits appended to the Board's memorandum as Exhibits 1-6 and Mr. Linehan's correspondence dated March 11, 2022 as Exhibit 7.

FINDINGS OF FACT

Based on the evidence presented by the parties, I make the following findings of fact:

1. Ms. Ferrara became a member of MSERS when she began working at the North River Collaborative. She filled out a New Member Enrollment Form on October 17, 2012, which she then submitted to the Board. (Ex. 1)
2. Mr. Best was Ms. Ferrara's boyfriend at the time she filled out the New Member Enrollment Form. (Ex. 1)
3. In the Enrollment Form, Ms. Ferrara designated Mr. Best as the sole beneficiary of her retirement benefits. While she did not check off the "Primary" or "Contingent" boxes, she did check off "All" for the proportion of the benefits that Mr. Best was to receive. (Ex. 1)
4. Ms. Ferrara passed away on April 15, 2021 at 48 years of age. (Ex. 2)
5. Mr. Linehan is Ms. Ferrara's uncle and the personal representative of her estate. (Exs. 2, 6, 8)

6. The Board determined Mr. Best was Ms. Ferrara’s duly designated beneficiary of her retirement account and notified Mr. Best and Mr. Linehan of its decision in a letter dated October 1, 2021. (Ex. 5)

7. In a letter dated October 13, 2021, Mr. Linehan appealed the Board’s decision to DALA. Mr. Linehan opines that he is “sure” Ms. Ferrara would want her mother, with whom she was close, to receive her retirement benefits. (Ex. 6)

CONCLUSION AND ORDER

Under G.L. c. 32, § 11(2)(c), a member “upon his *written notice on a prescribed form* filed with the board prior to his death, may nominate, and from time to time change, one or more beneficiaries to receive ... any sum becoming payable under the provisions of this subdivision on his death.” G.L. c. 32, § 11(2)(c) (emphasis added). To designate a beneficiary, a member must 1) fill out “a prescribed form” identifying the beneficiary and 2) submit that form to the Board. *Id.* The statute offers no other way for a member to designate a beneficiary to receive her retirement benefits upon the member’s death.

In this case, Ms. Ferrara’s prescribed beneficiary form is unambiguous; she established Mr. Best as the beneficiary of “All” of her benefits. Her intent is clear although she did not check off whether Mr. Best is the “Primary” or “Contingent” beneficiary, she provided all of Mr. Best’s information, indicated her relationship with him, and instructed that he shall receive “All” the benefits of her retirement plan. *See Blakeslee, et. al. v. State Bd. of Ret.*, CR-19-0409 and CR-19-0471, 2023 WL 3547615, at *4 (DALA May 12, 2023) (even though the member assigned two beneficiaries both “all” and “50%” of his benefits, the form and the extrinsic evidence demonstrated that “his intent was to evenly distribute his benefits between the Petitioners.”)

It is true that courts “tend to favor results that most likely meet the retiree’s actual expectations over results consistent with administrative ease.” *Reis v. New Bedford Ret.t Sys.*, CR-07-391, 2008 WL 7557364, at *4 (DALA March 12, 2008) (citing *O’Connor v. Boston Ret. Bd.*, 304 Mass. 471 (1939) (for member’s intended beneficiary because the member had filled out the form, turned it in, and the retirement administration had lost it)). If a member has manifested an intent to designate a beneficiary different from that on the most recently filed prescribed form, the courts will interpret the statute to effectuate the member’s intent. *See Reis*, CR-07-391, 2008 WL 7557364, at *4 (affidavits where member named his wife as his beneficiary were prescribed forms because the affidavits and other evidence indicated the member intended his wife as beneficiary).

That said, the prescribed form operates as the principal and often exclusive way of determining the member’s intended beneficiary. Where the form unambiguously identifies a beneficiary, courts will find intent to establish a different beneficiary only if there is strong and otherwise uncontradicted evidence that the member took steps to change the beneficiary designation. *See Diaz v. Northampton Ret. Bd.*, CR-93-613 (DALA Sept. 151994) (although member discussed changing beneficiary with his mother, friend, and executive secretary of the Board, member had ample opportunity to submit beneficiary change form and did not, and this failure was stronger indication of member’s intent than his verbal indications to others). Similarly, when the Board never received a prescribed form establishing a member’s beneficiary, the court will infer the member’s intent to establish such a beneficiary only if there is evidence of the member completing and submitting the prescribed form. *Compare O’Grady v. Contributory Ret.*

Appeal Bd., 88 Mass. App. Ct. 1102 (2015) (testimony indicated member's intent to establish his daughter as beneficiary was insufficient evidence to infer member had completed required paperwork) *with O'Connor*, 304 Mass. at 472 (although the Board could not locate the form, its existence could be inferred because member visited the Board, and signed the form establishing beneficiary in the presence of executive officer of the Board).

As Ms. Ferrara's form unambiguously identifies Mr. Best as her sole beneficiary, the Petitioner must provide strong, otherwise uncontradicted evidence to counter this clear intent. I find that Mr. Linehan has not provided such evidence. There is nothing that Ms. Ferrara did or said that can be interpreted as an effort to change the beneficiary designation. Indicating a close relationship with her mother is not sufficient to display intent on Ms. Ferrara's part to take the specific action of changing her beneficiary designation from Mr. Best to her mother. Moreover, while Mr. Linehan alleges that Ms. Ferrara selected her mother as the beneficiary of her life insurance policy, the record before me does not establish this. Even if it did, Ms. Ferrara's life insurance is separate from her retirement plan, and the beneficiary of one will not necessarily be the beneficiary of the other.

Mr. Linehan essentially asks the Board and DALA to disregard the statute's prescribed form requirement and provide equitable relief (evidently on the supposition that the member's mother would be a more fitting beneficiary), but we do not have the authority to do so. *See Early v. State Bd. of Ret.*, 420 Mass. 836, (1995); *see also Petrillo v. Pub. Emp. Ret. Admin.*, CR-92-731 (DALA Feb. 15,1993), *aff'g* CR-92-731 (CRAB Oct. 22,1993) (" ... we have been unable to locate any statutory or case law indicating

that this Board has the authority to employ an equitable remedy in the face of specific statutory language contrary to the position fostered by the Appellant”). Furthermore, even if we were able to provide equitable relief and find for Mr. Linehan, the retirement benefits would go to Ms. Ferrara’s estate --- not to her mother. *See Fritz-Elliott v. State Bd. of Ret.*, CR-14-368, 2016 WL 3476354, at *4 (DALA April 22, 2016) (“If there is no beneficiary of record, the retirement law directs that the decedent’s retirement account be paid to his ‘legal representatives.’ The Board has interpreted that term to mean the executor or administrator of the member’s estate.”) (quoting G.L. c. 32, § 11(2)(c)).

The Board’s decision is therefore affirmed.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

/s/ Timothy M. Pomarole

Timothy M. Pomarole, Esq.
Administrative Magistrate

DATED: July 7, 2023