

**COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ADMINISTRATIVE LAW APPEALS**

Kim Pieroni,
Petitioner

v.

Docket No. CR-25-0325, -0359

Stoneham Retirement Board,
Respondent

Appearance for Petitioner:

Paul S. Danehy, Esq.

Appearance for Respondent:

Michael Sacco, Esq.

Administrative Magistrate:

Kenneth Bresler

SUMMARY OF DECISION

Retirement Board's decision not to accept and process school employee's application for accidental disability retirement benefits, and later denial of the application, are affirmed because employee was not a member of the retirement system.

DECISION

The petitioner, Kim Pieroni, appeals two actions by the Stoneham Retirement Board (SRB) regarding her application for accidental disability retirement benefits: first, SRB's declining to accept and process it; and then, after SRB implicitly accepted it, SRB's denial.

I held a hearing on April 21, 2026, which I recorded and which was transcribed. Mrs. Pieroni was the only witness at the hearing. I admitted 14 exhibits.

Before the hearing, the parties jointly moved to allow the videotaped deposition of the Ana Veras, the director of human resources for the Stoneham Public Schools (D. 9), in lieu of her testimony. The reasons for the motion were that her testimony was crucial and her schedule might not allow her to testify at the hearing. I granted the motion. Her deposition was transcribed. The deposition transcript is Exhibit 14.

Citations to the hearing transcript are “H. __,” and identify Mrs. Pieroni’s hearing testimony. Citations to the deposition transcript are to “D. __” and identify Ms. Veras’s deposition testimony.

Both parties submitted post-hearing briefs in June 2026.

Findings of Fact

1. On August 21, 2022, Mrs. Pieroni was appointed as a cafeteria worker at the Robin Hood elementary school in Stoneham. She was an hourly employee. (H. 4-5; Ex. 3)

2. Her schedule was from 10:00 a.m. to 1:00 p.m., Monday through Friday. (H. 5; Ex. 3)

3. Soon after her hiring, Mrs. Pieroni’s schedule was changed to 9:30 a.m. to 1:00 p.m. She worked 17.5 hours per week for the 2022-23 school year. (H. 5-6, 12)

4. On November 21, 2023, Mrs. Pieroni was appointed to “a 0.5 Lead Cafeteria Worker” position. “0.5” referred to half-time. Since a full-time Lead Cafeteria Worker worked seven hours per day, a half-time Lead Cafeteria Worker, such as Mrs. Pieroni, worked 3.5 hours per day and 17.5 hours per week. She was an hourly employee. (D. 21-22; Exs. 4, 12)

5. An SRB supplemental regulation provides that anyone who (1) “is permanently employed twenty (20) or more hours per week by the Town of Stoneham or any of its

departments” and (2) “earn[s] at least \$5,000 per year in regular compensation” is a member of the Stoneham Retirement System. (Ex. 11)

6. To be eligible for benefits, including retirement, Stoneham Public School employees must have been permanently assigned to work at least 20 hours per week. (D. 11-12)¹

7. Mrs. Pieroni was not a member of the Stoneham Retirement System. (Ex. 6)

8. Mrs. Pieroni testified as follows (which I do not find as fact): After November 21, 2023, her duties expanded to serving breakfast, not just lunch. Her schedule changed to 8:00 a.m. to 1:00 p.m., Monday through Friday. She worked 25 hours per week. (H. 6-10)

9. When school was not in session, Mrs. Pieroni did not work. (H. 24)

10. If Stoneham Public Schools are short-staffed or a special event is scheduled, the public schools might ask a part-time employee, such as Mrs. Pieroni, to work more hours than usual. (D. 14-15, 23)

11. A check history from the Town of Stoneham for Mrs. Pieroni appears to show that from November 22, 2023 (one day after Mrs. Pieroni was appointed to become “a 0.5 Lead Cafeteria Worker”) through March 28, 2024 (shortly before Mrs. Pieroni claims to have ceased being able to perform the essential duties of her position, as discussed below), she was paid for the following number of hours in a two-week period:

¹ The regulation generally provides that a permanent employee working 20 hours or more per week “*shall* become a member of the Stoneham Retirement System.” (Emphasis added.) On its face, the regulation does not restrict membership to *only* such employees. Ms. Veras’s deposition clarifies that an employee who is not permanently working 20 hours or more *cannot* become a member.

50 hours (four pay periods)
48 hours (two pay periods)
47.5 hours (two pay periods)
47 hours (two pay periods)
45 hours (four pay periods)
44 hours (two pay periods)
23 hours (two pay periods)
19 hours (two pay periods)

(Ex. 5)²

12. On April 15, 2025, Mrs. Pieroni applied for accidental disability retirement benefits.

(Ex. 1, p. 1)

13. In her application, Mrs. Pieroni alleged that she had sustained severe burns to her hand in the cafeteria. The burns led to various conditions that in turn led her to cease being able to perform the essential duties of her position on April 3, 2024. (Ex. 1, pp. 6, 9; H. 5)

14. On May 6, 2025, SRB wrote to Mrs. Pieroni's lawyer, stating that Mrs. Pieroni was not an SRB member, never having been permanently employed for 20 hours per week, as an SRB regulation mandated. SRB wrote: "Accordingly, we are unable to accept and process her Application." The letter did not advise Mrs. Pieroni of the right to appeal. (Ex. 6)

15. On May 13, 2025, Mrs. Pieroni timely appealed. (Ex. 7) The appeal was assigned Docket No. CR-25-0325.

16. On June 3, 2025, SRB's lawyer wrote to Mrs. Pieroni's lawyer and stated the following: SRB had not formally acted on May 6, 2025 on Mrs. Pieroni's application; her appeal was premature; and SRB had formally denied her application on May 27, 2025. The letter advised her of her appeal right and advised her to withdraw her earlier appeal. (Ex. 8)

² The check history went unexplained at the hearing and in the deposition. It does not explicitly speak for itself, as the expression goes, but it is somewhat explicable.

17. Also on June 3, 2025, Mrs. Pieroni timely appealed. (Ex. 9) The two appeals were consolidated. (Ex. 10)

Discussion

In general, a member of a retirement system who becomes disabled from a workplace injury may apply for accidental disability retirement benefits. G.L. c. 32, §7(1). Anyone who is aggrieved by a retirement board's act or decision (such as denial of an application) or failure to act may appeal. G.L. c. 32, §16(4).

Mrs. Pieroni was not a member of the Stoneham Retirement System, whether or not she was eligible to be one. As a non-member, she was not eligible to apply for accidental disability retirement benefits. Therefore, the Stoneham Retirement Board could not process her application or grant it.

The decisions on appeal in this case are SRB's (1) decision not to accept and process Mrs. Pieroni's application for accidental disability retirement benefits and (2) denial of her application. (After declining to accept Mrs. Pieroni's application, SRB did later accept it and then denied it.) SRB's initial decision and later denial were correct and are affirmed.

I have authority to decide in an appeal only the issues that a petitioner has appealed. I cannot decide issues that are not on appeal. *See Michael Dufresne et al. v. State Board of Retirement*, CR-19-0572 (DALA July 29, 2022). By extension, I have no authority to decide issues that the parties agree to place in front of me or think are in front of me.

The issues on appeal here do not include whether Mrs. Pieroni was eligible to be a member of the Stoneham Retirement System, should have been a member, or was improperly excluded from membership. The parties ask me to decide one of those non-issues. *See* Pet. Br.

8 (“Petitioner should be deemed eligible for membership”); SRB Br. (unnumbered page)
(petitioner did not establish that SRB improperly “excluded her from System membership”). I
decline to do so.

Conclusion and Order

The Stoneham Retirement Board’s decisions are affirmed. Mrs. Pieroni’s application for
accidental disability retirement benefits cannot proceed.

Dated: October 9, 2026

/s/ Kenneth Bresler

Kenneth Bresler
Administrative Magistrate
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