COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss. **Division of Administrative Law Appeals**

**Serge Pierre-Louis,**

Petitioner

v. Docket No. CR-10-20

Date issued: Jul. 21, 2017

**State Board of Retirement,**

Respondent

**Appearance for Petitioner:**

*Pro se*

332 North Broadway

Apartment 314

Salem, NH 03079

**Appearance for Respondent:**

Candace L. Hodge, Esq.

State Board of Retirement

One Winter Street, 8th Floor

Boston, MA 02108

**Administrative Magistrate:**

**Kenneth J. Forton, Esq.**

**SUMMARY OF DECISION**

The Petitioner appealed the State Board of Retirement’s January 5, 2010 decision to deny him Group 2 Classification. Since the Petitioner was 66 years old when he retired, however, he had already reached the maximum age factor of 2.5 listed in G.L. c. 32, § 5(2) and would not have been entitled to a larger retirement allowance if he had been classified in Group 2. The Petitioner’s appeal is therefore moot.

**DECISION**

Petitioner Serge Pierre-Louis timely appeals the State Board of Retirement’s decision to deny him Group 2 Classification. On March 29, 2016, DALA ordered the parties to file pre-hearing memoranda. On May 26, 2016, Mr. Pierre-Louis filed his memorandum. On July 29, 2016, the Board did not file a memorandum, but rather filed a motion to dismiss the appeal as moot.

The following material facts are taken from the parties’ submissions and are not in dispute. Mr. Pierre-Louis was born in 1947. He was employed by the Department of Developmental Services from July 22, 1984 to October 4, 2014. The last position he held was Mental Retardation Worker IV. The Board classified him in Group 1.

On October 20, 2009, Mr. Pierre-Louis requested that he be classified in Group 2 for retirement purposes. As of that date, he had not filed a retirement application. By letter dated January 5, 2010, the Board denied Mr. Pierre-Louis’s request and kept him classified in Group 1. By letter dated January 12, 2010, he timely appealed the Board’s decision.

On August 8, 2014, when he was 66 years old, Mr. Pierre-Louis applied for superannuation retirement, requesting a retirement date of October 4, 2014.

After careful consideration of these undisputed facts, the State Board of Retirement’s motion to dismiss Mr. Pierre-Louis’s appeal is allowed.

For the period relevant to this appeal, a superannuation retirement allowance is calculated as the product of three factors: the member’s creditable service, the member’s average annual rate of regular compensation, and an age factor that is determined by the member’s age at retirement and his group classification. *See* G.L. c. 32, § 5(2). The maximum age factor that can be used in the calculation is 2.5. In Group 1, the member reaches the maximum 2.5 at age 65. In Group 2, the member reaches the maximum 2.5 at age 60.

When Mr. Pierre-Louis retired, at age 66, he had reached the maximum 2.5 for Group 1 employees. If he had been classified in Group 2, he would have reached that same maximum 2.5 at age 60. But, reclassifying him to Group 2 now would not increase his retirement allowance. See *Ventura v. State Bd. of Retirement*, CR-01-63 (DALA 2002) (Petitioner, who retired at age 65, not entitled to Group 2 classification because she was already receiving the maximum retirement allowance). His appeal is therefore moot.

For the above-stated reasons, the State Board of Retirement’s motion to dismiss is granted.

So Ordered.

Division of Administrative Law Appeals

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Kenneth J. Forton, Esq.

Administrative Magistrate

DATED: Jul. 21, 2017