

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Robin Proctor,
Petitioner,

No. CR-19-0634

Dated: July 11, 2025

v.

State Board of Retirement,
Respondent.

ORDER OF DISMISSAL

This is an appeal from a decision of the State Board of Retirement (board) denying petitioner Robin Proctor’s application to retire for accidental disability. An evidentiary hearing was initially calendared for November 2024; but in advance of the hearing, the matter was remanded to the board by agreement for the purpose of soliciting additional input from Ms. Proctor’s regional medical panel.

A necessary consequence of the remand was that the board would need to consider Ms. Proctor’s case again on an updated basis. Whether favorable or unfavorable to Ms. Proctor, the board’s new decision is the one that will form the basis for any future litigation. In that sense, this appeal and the decision that prompted it are moot. *See generally Fannie Mae v. Branch*, 494 Mass. 343, 347-48 (2024).

The parties nevertheless asked for the current docket to remain open, presumably in order to accelerate and streamline any proceedings after remand. *See Murphy v. Massachusetts Turnpike Auth. Ret. Bd.*, No. CR-89-186 (Contributory Ret. App. Bd. Oct. 22, 1993). The request was allowed; but for the sake of keeping the appeal on track toward a speedy disposition, the parties were ordered to file “monthly status reports describing the progress of the proceedings on remand.” The order said: “The reports shall be due by the end of each month. Any failure to file them may warrant dismissal for failure to prosecute.”

No status report was filed for November 2024. The parties rectified that omission after being warned that otherwise the appeal would be dismissed. In February 2025, the parties again filed no status report. They were advised by order that: “If any future monthly report is not timely filed, the appeal may be dismissed [for failure to prosecute] without further notice.” No monthly reports have been filed for May 2025 or for June 2025.

It may be that the parties continue to disagree over whether Ms. Proctor is entitled to retire. But this particular appeal is not being prosecuted with reasonable diligence or reasonably in compliance with the tribunal’s orders. *See* 801 C.M.R. § 1.01(7)(g)(2). Proceedings that require the tribunal to chase down the parties for routine, recurring submissions are not consistent with the “orderly and expeditious disposition of cases and the calendar as a whole.” *Ivy v. Boston Med. Ctr.*, 97 Mass. App. Ct. 1117 (2020) (unpublished memorandum opinion). *See Anderson v. Sport Lounge, Inc.*, 27 Mass. App. Ct. 1208, 1209 (1989).

In view of the foregoing, it is hereby ORDERED that this appeal is DISMISSED. This outcome is without prejudice to Ms. Proctor’s right to appeal from the decision that the board will issue upon consideration of the medical panel’s updated input.

Division of Administrative Law Appeals

/s/ Yakov Malkiel

Yakov Malkiel

Administrative Magistrate