

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Francine Rinfret-Cronin,
Petitioner

v.

Docket No. CR-20-0296

Melrose Retirement Board,
Respondent

Appearance for Petitioner:

Francine Rinfret-Cronin, *Pro Se*

Appearance for Respondent:

Robert G. Fabino, Esq.
Law Office of Robert G. Fabino, LLC
17 Charles Street
Methuen, MA 01844

Administrative Magistrate:

Timothy M. Pomarole, Esq.

SUMMARY OF DECISION

The Melrose Retirement Board properly set the Petitioner's effective retirement date as fifteen days after receipt of her application for voluntary superannuation retirement. General Laws c. 32 § 10(3) allows a retiring member's retirement date to be retroactive to the date of their termination of service provided the member files their completed application with the Board no more than sixty days following their termination of service. When, as was the case here, the member files the application beyond this sixty-day window, the effective date of retirement must be at least fifteen days after the application was filed.

DECISION

Petitioner appeals a determination of the Melrose Retirement Board that set her effective retirement date as fifteen days after receipt of her application, rather than setting it retroactively

to her termination of service. The Respondent submitted a pre-hearing brief, which I marked for identification as Exhibit A. The Petitioner did not file a pre-hearing brief.¹

This appeal is submitted on the papers pursuant to 801 CMR § 1.01(10)(c). I admit into evidence Respondent's Exhibits 1-9.

FINDINGS OF FACT

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

1. Francine Rinfret-Cronin is a retired member of the Melrose Retirement System. (Ex. 3).
2. She joined the Melrose Retirement System as a school nurse on August 18, 2018. Prior to joining, she was a member of the Massachusetts Teachers' Retirement System from September 1, 1995 until June 26, 2017. (Exs. 3, 7, 8).
3. Ms. Rinfret-Cronin separated from service on October 11, 2019. (Ex. 6).
4. On or around her last day of service, Ms. Rinfret-Cronin met with Adam Travinski, Executive Director for the Melrose Retirement Board, to discuss her retirement and the documentation necessary to process her application, which she had not yet submitted. (Exs. 2, 5).

¹ A pre-hearing order dated July 20, 2021 required the parties to file pre-hearing memoranda. Neither party filed memoranda in compliance with that order. A scheduling order dated December 8, 2022 set dates for: (1) the Petitioner to file a copy of the decision from which she was appealing; (2) the Respondent to file a memorandum; and (3) the Petitioner to file a memorandum in response to the Respondent's memorandum. The Respondent filed a pre-hearing memorandum. The Petitioner did not file a copy of the decision from which she was appealing or a memorandum. Because she complied with neither the July 20, 2021 order nor the December 8, 2022 order, her appeal could have been properly dismissed for failure to prosecute. Nevertheless, I will consider the substantive merits of her appeal. I can discern no unfair prejudice to the Respondent in doing so, and I am satisfied that this appeal may be resolved on the record before me.

5. Ms. Rinfret-Cronin filled out her application for voluntary superannuation retirement on or around November 27, 2019, but she had not yet obtained all of the required supporting documentation at that time. (Exs. 3, 9).
6. In May 2020, Ms. Rinfret-Cronin exchanged emails with Mr. Travinski addressing final details for the submission of her retirement application. During this exchange, Mr. Travinski stated that her retirement allowance would not begin on the date she separated from service, but would instead go into effect fifteen days from the date her application was received, per G. L. c. 32 § 10(3). (Ex. 9).
7. Ms. Rinfret-Cronin submitted her completed application for Voluntary Superannuation Retirement to the Melrose Retirement Board, which the Board received on May 12, 2020. Accordingly, the Board set her effective date of retirement as May 27, 2020, which was fifteen days from the receipt of her application. (Exs. 1, 3, 9).
8. Ms. Rinfret-Cronin timely appealed under G.L. c. 32 § 16(4). (Ex. 2).

CONCLUSION AND ORDER

General Laws c. 32 § 10(3) states in relevant part:

The retirement allowance of any member...shall become effective on the date of... [her] termination of service if... [her] written application therefor is filed with the board not more than sixty days after such date; otherwise... [her] retirement allowance shall be deferred. Any such member may, at any time thereafter...file with the board... [her] written application for such retirement allowance, and thereupon such retirement allowance shall become effective on the date which shall be specified in such application and which shall be not less than fifteen days nor more than four months after the filing of such application....

The statute allows for a sixty-day period after a retiring member's termination of service in which an application for retirement may be submitted for a retirement date that is retroactive

to the date of termination of service. After that sixty-day period, the effective date of retirement must be at least fifteen days after the date the application for retirement is filed.

Here, Ms. Rinfret-Cronin separated from service on October 11, 2019. She filled out and signed the prescribed form to apply for superannuation retirement. Her application is dated November 27, 2019. Had she filed her completed application on or around that date, Ms. Rinfret-Cronin's effective date of retirement would have been retroactive to the date on which she separated from service. However, she did not file her application until May 12 of the following year. The sixty-day window had by that time closed, and accordingly the Melrose Retirement Board set her effective retirement date as fifteen days after the receipt of her application.

Ms. Rinfret-Cronin contends on appeal that she was not informed of the requirements of § 10(3) when she met with the Melrose Retirement System's Executive Director, Adam Travinski, to discuss her retirement. She states that she was told only that "everything is retroactive[,]” and that once she submitted her remaining documents, the effective date of her retirement would be the date of her termination of service. Ms. Rinfret-Cronin argues that she relied on Mr. Travinski's alleged advice to her detriment and that had she been informed of § 10(3), she would have filed her paperwork within the requisite period.

In his affidavit, Mr. Travinski recalls meeting with Ms. Rinfret-Cronin to discuss her retirement and states that he explained to her in that meeting that "her retirement allowance would be retroactive if she had submitted her retirement application after she resigned.” Mr. Travinski expresses confidence that he had shared with her the requirements of § 10(3) and opines that with his years of experience it was unlikely he would fail to mention the deadline.

It is not necessary for me to decide which of the conflicting accounts, Ms. Rinfret-Cronin's or Mr. Travinski's, is accurate. Unfortunately, even if Ms. Rinfret-Cronin's

recollection is accurate, retirement systems are not bound by the mistaken representations of their agents when such incorrect statements conflict with the clear and unambiguous language of the statute. *Guarino v. Contributory Ret. Appeal Bd.*, CR-97-1549, at 5 (DALA Nov. 12, 1998). In other words, “the government cannot be ‘estopped’ from enforcing the laws correctly.” *Blatt v. State Bd. of Ret.*, CR-20-199, 2022 WL 9619034, at *1 (DALA Aug. 26, 2022) (citations omitted). Whether or not Mr. Travinski properly informed Ms. Rinfret-Cronin of the sixty-day deadline, the Board cannot be estopped from lawfully enforcing G.L. c. 32 § 10(3) in accordance with the clear and unambiguous language of that statute.

For the foregoing reasons, the decision of the Melrose Retirement Board is AFFIRMED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

/s/ Timothy M. Pomarole

Timothy M. Pomarole
Administrative Magistrate

Dated: August 18, 2023