

COMMONWEALTH OF MASSACHUSETTS

Division of Administrative Law Appeals

Edwin Rodriguez,
Petitioner

v.

Docket No. CR-23-0524

State Board of Retirement,
Respondent

Appearance for Petitioner:

Edwin Rodriguez, *pro se*

Appearance for Respondent:

Yande Lombe, Esq.

Administrative Magistrate:

Timothy M. Pomarole, Esq.

SUMMARY OF DECISION

The Petitioner appeals a decision by the State Board of Retirement that he is precluded from purchasing his prior contract service because he did not purchase the service, or enter into an installment agreement to purchase it, within 180 days of the Board mailing the invoice for the purchase. The Board's decision is reversed. The Petitioner has established that he did not receive the invoice.

DECISION

The Petitioner, Edwin Rodriguez, appeals the decision by the State Board of Retirement ("the Board") that he is precluded from purchasing prior contract service because he did not complete the purchase or enter into an installment agreement for its purchase within 180 days of the Board mailing an invoice for the purchase. I held a hearing on June 4, 2025 via the Webex videoconferencing platform. The hearing was

recorded. Mr. Rodriguez and his spouse, Edna Rodriguez, testified. I admitted Exhibits 1-12 into evidence. The parties gave oral closing statements.

FINDINGS OF FACT

Based on the evidence presented by the parties, along with reasonable inferences drawn therefrom, I make the following findings of fact:

1. From sometime in 2006 to November 2007, Mr. Rodriguez was employed as a temporary correctional officer at the Worcester County Sherriff's Office. He entered state service as a correctional officer on November 12, 2007. (Exhibit 1; Exhibit 9).¹
2. On or around December 20, 2016, Mr. Rodriguez submitted a contract service buyback form for the purchase of his contract service as a temporary correctional officer. (Exhibit 1).
3. The form, which Mr. Rodriguez signed, states:

I also understand that once I receive notification from the Board that I am eligible to purchase contract service, I must either make a lump sum payment or enter into an installment agreement within 180 days after the notice. If I fail to do so, I am forfeiting my right to purchase this service and will not be rebilled at any time in the future.

(Exhibit 1).
4. Mr. Rodriguez called the Board between six months to one year later to inquire about the status of his purchase request. He was told that his request was being processed. Mr. Rodriguez called the Board to inquire into the status of his application at least one more time prior to September 13, 2023.

¹The record contains some conflicting dates for Mr. Rodriguez's service as a temporary correctional officer. The precise dates of that service are not material to this decision.

(Edwin Rodriguez Test.).

5. On August 18, 2018, Board staff sent a letter to the Worcester County Sheriff's Office to request information pertaining to Mr. Rodriguez's request. (Exhibit 8; Exhibit 12).
6. At some point, Mr. Rodriguez spoke with his employer's human resources department about his purchase request. He was advised to send in a new application. (Edwin Rodriguez Test.).
7. On March 11, 2022, Mr. Rodriguez submitted another contract buyback form for the purchase of his contract service. (Exhibit 9).
8. Board staff prepared an invoice dated March 25, 2022 providing the cost to purchase Mr. Rodriguez's contract service. The invoice recited a deadline of September 21, 2022 to either (a) purchase the service in one lump sum; or (b) enter into a payment plan with the Board. (Exhibit 3; Exhibit 12).
9. The Board mailed the invoice to Mr. Rodriguez's home address. (Exhibit 12).²
10. Mr. Rodriguez did not receive the invoice. (Edwin Rodriguez Test.; Edna Rodriguez Test.).
11. In 2022, the time period relevant to this appeal, the Rodriguezes' mailbox was located by the front door. It was Mrs. Rodriguez's practice to bring in the mail when it arrived and place it on an island in the kitchen, which is close to the front door. Mrs. Rodriguez sorted the mail and affixed important and/or

² This finding is based on an affidavit by Pamela Forde, a Board employee. (Exhibit 12). She states that "Board records show that the [March 25, 2022 invoice] was mailed by U.S. Mail on the same day that it was prepared." (*Id.*).

time-sensitive correspondence on the refrigerator door with a magnet so that she and her husband would have a visual reminder to take care of it. (Edwin Rodriguez Test.; Edna Rodriguez Test.).

12. In 2022, Mrs. Rodriguez knew what correspondence from the Commonwealth looked like and knew that it was generally very important. (Edwin Rodriguez Testimony; Edna Rodriguez Testimony).

13. On September 13, 2023, Mr. Rodriguez called the Board to inquire into the status of his request. A member of the Board's staff, Kayla Dorandi, told him that an invoice had been sent to him on March 25, 2022 and had a payment due date of September 21, 2022. (Petitioner's Prehearing Memorandum; Respondent's Prehearing Memorandum).³

14. Mr. Rodriguez told Ms. Dorandi that he had not received the invoice. She advised him to send her an e-mail explaining the situation and requesting a new invoice. (Petitioner's Prehearing Memorandum; Respondent's Prehearing Memorandum).

15. That day, Mr. Rodriguez sent an e-mail to Ms. Dorandi stating that he had never received the March 25, 2022 invoice and asking that the Board "re open the request." (Exhibit 2).

16. Mr. Rodriguez sent follow-up e-mails to Ms. Dorandi on October 2, 2023 and October 5, 2023 to ask about the status of his request. (Exhibit 2).

17. On October 5, 2023, Mr. Rodriguez received a copy of the March 25, 2022

³ I treat the facts recited in this paragraph and the next paragraph – asserted by Mr. Rodriguez in his prehearing memorandum and admitted by the Board – as a stipulation.

invoice. (Exhibit 3).

18. Mr. Rodriguez had sufficient funds to purchase his contract service. (Exhibits 2, 4-6).

19. On October 6, 2023, Mr. Rodriguez e-mailed Ms. Doranti to inform her that he was ready to pay the invoice. She told him not to pay that invoice and informed him that he would receive a new one. (Exhibit 2).

20. In a letter dated October 19, 2023, the Board informed Mr. Rodriguez that it was denying his September 13, 2023 request to “re-open [his] contract service buyback bill dated 03/25/2022” on the ground that he did not purchase or enter into an agreement to purchase his service within 180 days of March 25, 2022. (Exhibit 11).

21. Mr. Rodriguez timely appealed that decision to DALA.

CONCLUSION AND ORDER

Under some circumstances, members of the state employees’ retirement system may “buy back” time spent as a contract employee and receive credit for it for retirement purposes. These purchases of creditable service are governed by M.G.L. c. 32, § 4(1)(s), which provides in pertinent part as follows:

Members in service of the state retirement system who make application for this creditable service shall, subject to the rules and regulations of the state board of retirement, be notified by the state board of retirement of their eligibility for creditable service and, if they are eligible, shall also be notified by the state board of retirement that they have the following options: (1) to purchase the service in a lump sum within 180 days after the date of the notice; or (2) to enter into an installment agreement within 180 days after the date of the notice to pay for the service. No creditable service shall be allowed under this section unless the member provides documentation of the member's service as a contract employee satisfying the state board of retirement's requirements.

The Board's regulations further specify that "If the 180-day period expires without action by a member, the contract service shall no longer be eligible for purchase." 941 CMR 2.09(5)(b).

The Board argues that under its regulations, Mr. Rodriguez is precluded from purchasing his prior contract service because he did not purchase the service via a lump-sum payment or enter into a payment plan within 180 days of March 25, 2023, the date on which it mailed him the invoice. Mr. Rodriguez claims that he is not precluded from purchasing the service because he did not receive the March 25, 2022 invoice when it was first mailed and did not receive a copy of the invoice until October 25, 2023, after he had called the Board to inquire into the status of his contract purchase request. Although he was prepared to purchase the service at that time, he was told not to do so.

The Board does not dispute that Mr. Rodriguez would not be precluded from making the purchase if he did not, in fact, receive the invoice when it was first mailed to him.

Mr. Rodriguez, as the petitioner, bears the burden of proof. *Pomeroy v. Plymouth Ret. Bd.*, CR-15-258, 2019 WL 13536568, at *5 (Contrib. Ret. App. Bd. May 20, 2019) (citations omitted).

It is presumed that a letter placed in the US mail is delivered to the addressee in the regular course of business. *Cooper v. State Bd. of Ret.*, CR-20-0345, 2022 WL 16921451, at *8 (Div. Admin. Law App. Aug. 12, 2022) (citing *Anderson v. Inhabitants of the Town of Billerica*, 309 Mass. 516, 518 (1941)). Once it has been established that a letter has been sent, the fact of its mailing becomes prima facie evidence that the letter was received by the addressee. *Id.* (citation omitted).

Because, as I have found, the Board mailed the invoice to Mr. Rodriguez at his home address on March 25, 2022, there is a presumption that he received it.

To rebut this presumption, it would not be enough for Mr. Rodriguez to merely establish that he has no recollection of receiving the invoice. *Cooper, supra*. Nor would it be enough for Mr. Rodriguez to make a conclusory statement that it was not received. *Roberts v. Worcester Reg. Ret. Sys.*, CR-18-0434, 2022 WL 16921466, at *3 (Div. Admin. Law App. May 20, 2022).

Here, however, Mr. Rodriguez has furnished evidence concerning the receipt and handling of mail in his household, generally, and Mrs. Rodriguez's attentiveness to mail from the Commonwealth, in particular. This evidence portrays a well-ordered and deliberate approach to handling the mail – with particular attention to important correspondence, such as that from the Commonwealth. If the March 25, 2022 invoice had been received by the Rodriguez household, the preponderance of the evidence establishes that it would have been unlikely that the Rodriguezes would have overlooked, lost, or discarded it.

Indeed, because Mr. Rodriguez had submitted a second contract service purchase request on or around March 11, 2022, it is especially unlikely that an invoice arriving a few weeks later would have escaped the Rodriguezes' attention or that they would have failed to appreciate its importance.

In sum, I conclude that a preponderance of the evidence establishes that Mr. Rodriguez did not receive the March 25, 2022 invoice when it was originally mailed out by the Board. Accordingly, the Board's argument that Mr. Rodriguez is precluded from purchasing his prior contract service because he did not do so within 180 days of the

invoice is unavailing.

The Board makes an additional argument – that Mr. Rodriguez was not eligible to purchase his contract service when he submitted in first purchase request in December 2016 because, at the time, he had fewer than ten years of creditable service. (Respondent’s Prehearing Memorandum, at 9 (citing 941 CMR 2.09(3)(a))). The Board evidently means to suggest that Mr. Rodriguez’s ineligibility to purchase service as of December 2016 precludes him from proceeding with the purchase now. The argument is unsound.

Assuming no breaks in service, Mr. Rodriguez’s ineligibility in December 2016 was cured by November 2017 (ten years after he became a full-time correctional officer). Even if the passage of time could not cure the defects in his original December 2016 purchase request, he submitted another purchase request in March 2022. The Board does not explain why Mr. Rodriguez’s insufficient years of creditable service in December 2016 barred him from applying again several years later when he did have the required years of service.

For the foregoing reasons, the decision of the State Board of Retirement is **reversed**.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

/s/ Timothy M. Pomarole

Timothy M. Pomarole, Esq.
Administrative Magistrate

Dated: July 11, 2025