

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Diana Rossetti,
Petitioner

Docket No. CR-24-0527¹

June 13, 2025

v.

**Massachusetts Teachers' Retirement
System,**
Respondent

ORDER OF DISMISSAL

On April 9, 2025, I issued petitioner Diana Rossetti an order to show cause why her appeal should not be dismissed as untimely filed. Ms. Rossetti has not shown cause in her response filed by email on April 16, 2025. Her appeal assigned Docket No. CR-24-0527 is therefore dismissed as untimely.² 801 CMR 1.01(g)3.

The Massachusetts Teachers' Retirement System issued a decision on July 18, 2024. MTRS denied Ms. Rossetti's request that it consider her Crisis Prevention Intervention Specialist stipend for the 2022-2023 school year as "regular compensation" when calculating her retirement benefit. Ms. Rossetti acknowledged receipt of the MTRS decision by email on July 18, 2024 and by mail on July 22, 2024. Ms. Rossetti filed her appeal on August 7, 2024, after the 15 day appeal period set forth in G.L. c. 32, § 16(4) had passed.

Ms. Rossetti's arguments that her appeal should be considered nonetheless are without merit. The July 18, 2024 MTRS decision referred only to the Stipend in 2022-2023 as ineligible.

¹ DALA consolidated Ms. Rossetti's two appeals. As a result, the parties filed proposed exhibits that pertained to both appeals. The exhibits admitted are identified in the Decision for Docket No. CR-24-0530.

² Ms. Rossetti's appeal docketed as No. CR-24-0530 is not affected by this decision.

The August 9, 2024 MTRS decision referred only to the Stipend in 2023-2024 as ineligible. The latter decision acknowledged that there was a previous stipend denial and explained that the second decision was based on additional information received from the school district. It is abundantly clear that these are two separate decisions.

Ms. Rossetti's equitable arguments ignore DALA and CRAB's long line of decisions holding that the fifteen day appeal period in G.L. c. 32, § 16(4) is jurisdictional and must be enforced. Neither agency has the authority to provide equitable relief when it contravenes the retirement law. *Hicks v. State Bd. of Ret.*, No. CR-21-0254, at *2 (Contributory Ret. App. Bd. Dec. 31, 2024) citing *Early v. State Bd. of Ret.*, 420 Mass. 836 (1995); *Petrillo v. Public Emp. Ret. Admin. Comm'n*, No. CR-92-731 (Contributory Ret. App. Bd. Oct. 22, 1993).

Given my conclusion that the appeal is untimely, no decision is possible on the merits of Ms. Rossetti's appeal. *Smith Joe v. Essex Ret. Bd.*, No. CR-19-0444 (Div. Admin. Law Appeals Nov. 1, 2019). See *Karbowski v. Bradgate Assoc., Inc.*, 25 Mass. App. Ct. 526, 528 (1987) (finding District Court had no jurisdiction to vacate an arbitrator's award and annulling the Court's ruling); see also *Bailey v. Contributory Ret. App. Bd.*, BR CV 2012-1405 (Sup. Ct. Sept. 30, 2013) (where appeal not filed timely, finding on the merits of the appeal is a nullity.)

CONCLUSION

Ms. Rossetti's appeal is dismissed for lack of jurisdiction.

DIVISION OF ADMINISTRATIVE LAW APPEALS

Bonney Cashin

Bonney Cashin

Administrative Magistrate

DATED: June 13, 2025