

COMMONWEALTH OF MASSACHUSETTS  
Division of Administrative Law Appeals

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THOMAS WELSH  
*Petitioners*

Docket No. CR-20-0396

v.

Date: April 7, 2023

WORCESTER REGIONAL  
RETIREMENT SYSTEM,  
*Respondent*

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**Appearance for Petitioner:**

Thomas Welsh, *pro se*  
Milford, MA 01757

**Appearance for Respondents:**

Worcester Regional Retirement System<sup>1</sup>  
Worcester, MA 01501

**Administrative Magistrate:**

Eric Tennen

**SUMMARY OF DECISION**

For the reasons stated in *Briggs v. Worcester Reg. Ret. Sys.*, a former call firefighter who is now a permanent firefighter was entitled to purchase creditable service both under the specific rules stated in G.L. c. 32, § 4(2)(b) and under the retirement board’s applicable regulations.

**DECISION**

Pursuant to G.L. c. 32, § 16(4), Petitioner, Thomas Welsh, appeals a decision by the Worcester Regional Retirement System (“WRRS”) reducing the amount of creditable service available for him to purchase. DALA issued a scheduling order indicating that the matter could

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<sup>1</sup> The Respondent was represented by Attorney Michael Sacco, who recently resigned as its Executive Director. There is currently no attorney of record.

be decided without a hearing and instructing the parties to file memoranda and evidence in support of their positions. The WRRS filed its memorandum on June 4, 2021; the Petitioner filed a response on July 1, 2021.

### **FINDINGS OF FACT**

Neither party filed any evidentiary exhibits. However, between the Board’s denial letter and the Board’s concessions in its memorandum, there are sufficient facts upon which to render a decision. I make the following findings of fact:

1. The Petitioner was a call firefighter in the Town of West Boylston. (Board denial letter.)
2. The Petitioner was later appointed as a permanent firefighter in West Boylston. (Board’s Memorandum.)
3. At some point, he was allowed to purchase his prior service as a call firefighter. He was credited with seven years and one month of service. However, on September 17, 2020, the Board reversed itself and notified the Petitioner he was only entitled to purchase five years of prior service. (Board denial letter.)
4. The Petitioner timely appealed.

### **CONCLUSION AND ORDER**

A summary decision may be granted when “there is no genuine issue of fact relating to all or part of a claim.” 801 Code Mass. Regs. § 1.01(7)(h). “In such a circumstance, a hearing serves no useful purpose.” *Jordan v. State Bd. of Ret.*, CR-21-0201, 2022 WL 16921458 (DALA Feb. 18, 2022). This is such a case.

After the parties briefed the issue, DALA decided *Briggs v. Worcester Reg. Ret. Sys.*, CR-20-384, 2022 WL 9619041 (Mar. 11, 2022). The issue in *Briggs* was identical to the issue in this case, and the System’s arguments are the same. I understand *Briggs* is presently under

appeal to CRAB; nevertheless, at this moment, it is a consistent precedent I am bound to follow. See *Cain v. Milton Ret. Bd.*, CR-12-573 (Div. Admin. Law. App., Feb. 19, 2016).

Therefore, for all the reasons stated in *Briggs, supra*, the WRRS's decision is **vacated** and its prior calculation of the creditable service available to the Petitioner is reinstated.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

*Eric Tennen*

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Eric Tennen  
Administrative Magistrate