



PSERB Resolution 2026-14
Re: Snook G., Docket No. 2024-06
March 19, 2026

RESOLVED, that, in the matter of Gregory W. Snook, Docket No. 2024-06 the Public School Employees' Retirement Board accepts the recommendation of the Benefits and Appeals Committee and adopts the proposed Opinion and Order of the Board and dismisses Claimant's appeal with prejudice.

Mail Date: _____

**COMMONWEALTH OF PENNSYLVANIA
PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD**

IN RE: ACCOUNT OF GREGORY W. SNOOK
DOCKET NO. 2024-06
CLAIM OF GREGORY W. SNOOK

OPINION AND ORDER OF THE BOARD

The Board has carefully and independently reviewed the entire record of this proceeding, including the proposed Opinion and Recommendation of the Hearing Examiner. We note that neither party filed exceptions to the proposed Opinion and Recommendation. The Board finds appropriate the proposed Opinion and Recommendation, and, accordingly, we hereby adopt it as our own.

IT IS HEREBY ORDERED that Claimant Gregory W. Snook's request to change his effective date of retirement and be paid retroactive pension benefits is DENIED.

PUBLIC SCHOOL EMPLOYEES'
RETIREMENT BOARD

Dated: _____

By: _____
Richard Vague, Chairman



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EXECUTIVE OFFICE

**COMMONWEALTH OF PENNSYLVANIA
BEFORE THE PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD**

IN RE:

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**ACCOUNT OF GREGORY W. SNOOK
CLAIM OF GREGORY W. SNOOK**

DOCKET NO. 2024-06

PROPOSED OPINION AND RECOMMENDATION

Michael T. Foerster
Hearing Officer

**GOVERNOR'S OFFICE OF GENERAL COUNSEL
DEPARTMENT OF STATE
OFFICE OF HEARING EXAMINERS
P.O. BOX 2649
HARRISBURG, PENNSYLVANIA 17105-2649**

HISTORY

This matter is before the Public School Employees' Retirement Board ("Board") on an appeal filed by Gregory W. Snook ("Claimant") on February 23, 2024. Claimant appealed from a decision of the Executive Staff Review Committee ("ESRC") of the Public School Employees' Retirement System ("PSERS"), dated January 30, 2024 ("ESRC denial letter"), which denied Claimant's request to change the effective date of his retirement to the day following his separation from service.

Claimant, a member of PSERS with twenty-three years of credited service, last worked as a school employee on May 25, 2022, with a termination date of May 26. On July 22, 2022, with the help of a friend, Claimant created a Member Self-Service ("MSS") account with PSERS and elected to retain the default paperless delivery option for documents. On July 28, 2022, Claimant contacted PSERS to request a retirement estimate, and on August 1, 2022, PSERS posted a Normal Retirement Estimate to his MSS account. That same day, Claimant submitted an incomplete Application for Retirement, electing to withdraw all of his contributions and interest through a direct rollover, but failing to include the requested *Authorization for Direct Rollover* (PSERS-1264) form.

On August 10, 2022, PSERS issued a letter, posted to Claimant's MSS account, requesting the missing rollover form by September 9, 2022, to retain his effective retirement date. Claimant did not respond, and on September 9, 2022, and October 9, 2022, PSERS issued further notices via his MSS account, reminding him of the incomplete application and indicating that failure to respond within thirty days would result in the application being withdrawn. Claimant did not respond until December 22, 2022, when PSERS received a handwritten note and a revised application page from him, indicating conflicting withdrawal choices and still

lacking the requested rollover form. After a follow-up phone call, Claimant clarified that he no longer intended to withdraw any funds, allowing PSERS to process the retirement benefit. PSERS finalized Claimant's retirement effective December 22, 2022, the date his completed application was received.

By letter dated January 11, 2023, Claimant requested to change his communication preference from paperless to mail. PSERS processed this request on January 19, 2023. On that same date, PSERS issued a finalized retirement benefit letter, with an effective retirement date of December 22, 2022 and a monthly benefit amount of \$3,455.60. Claimant subsequently appealed the effective retirement date to the ESRC, which denied the request by letter dated January 30, 2024. Claimant then timely filed this appeal and request for administrative hearing.

The matter was scheduled for hearing on March 27, 2025. The hearing occurred as scheduled. Claimant appeared without counsel and represented himself. Christine M. Trout, Esquire represented PSERS. The parties presented testimony and documentary evidence. At the close of the hearing, the parties elected to file post-hearing briefs. The transcript was filed on April 23, 2025. The undersigned issued an Order establishing a briefing schedule on April 30, 2025. Mr. Snook's brief was due May 30, 2025; however, he did not file. PSERS filed its brief, as requested, on July 1, 2025. Claimant did not file a reply brief. The record is now closed, and the matter is ripe for adjudication.

FINDINGS OF FACT

1. Claimant is a member of PSERS with twenty-three years of credited service. PSERS-10.
2. At all times relevant to the present appeal, Claimant was enrolled in PSERS. N.T. *passim*.
3. Claimant's last day of work as a school employee was May 25, 2022. N.T. 12.
4. On July 22, 2022, with the help of his friend, Claimant created a Member Self-Service ("MSS") account with PSERS. N.T. 12, 14, 37.
5. Eugene Robison is the director of the Bureau of Communication and Counseling at the Public School Employees' Retirement System. N.T. 30.
6. Mr. Robison has been employed by PSERS for over sixteen years. N.T. 30.
7. In his role, Mr. Robison oversees all members and employer communications, including PSERS' call centers, e-mail communications, counseling appointments, field office correspondence, and member demographics. N.T. 30.
8. By nature of his position, Mr. Robison has intimate knowledge of the retirement process. N.T. 30.
9. Mr. Robison testified that he is familiar with member MSS accounts. N.T. 34.
10. MSS is an online portal that allows members to interact with PSERS, update their information, and view documents. N.T. 34.
11. MSS accounts are access points to online portal on which members can update demographic information and view documents and correspondence. N.T. 34.
12. MSS defaults members into paperless delivery of documents. N.T. 34-35.
13. Mr. Robison personally reviewed Claimant's file. N.T. 37.

14. Claimant registered for an MSS account in July of 2022. N.T. 37-38.

15. By registering and logging on to his MSS account, Claimant represented that he was the authorized user, and was deemed to have read, understood, and accepted the paperless notice and/or delivery of all available correspondence disclaimer. N.T. 34.

16. The paperless notice and/or delivery of all available correspondence states:

By registering for an account with this site, I understand and acknowledge that I am agreeing and consenting to receive electronic notice of the availability of documents and communications provided by PSERS. . . . I agree and acknowledge that this will replace most, if not all, written communication from PSERS associated with my account and that I will no longer receive these documents from PSERS via U.S. Mail unless or until I revoke this consent and opt out of electronic delivery, regardless whether or not my e-mail address remains valid. I understand and agree that this consent shall remain effective unless or until I revoke it and opt out of electronic delivery I agree and certify that I have access to the necessary hardware and software to access and retain documents that are delivered to me electronically. To access these documents, I will need access to a personal computer or other access device that is capable of accessing the Internet, and a valid e-mail address. To retain electronic records, my computer or access drive must have the ability to download documents to a hard drive or external storage device, or to print the document in hard copy.

N.T. 38-39; PSERS-13.

17. Members can have an MSS account without having paperless delivery. N.T. 35.

18. Members are not required to create MSS accounts. N.T. 34.

19. Members can change their delivery preference in the MSS portal or by writing to PSERS. N.T. 35.

20. Claimant successfully logged into his MSS account on numerous occasions after its creation. N.T. 41.

21. By creating a MSS account, a member defaults to paperless delivery of documents and correspondence as their delivery preference, and that members can change their delivery preference by logging on to their account and manually changing their preference in their profile

settings or by writing to PSERS. N.T. 34.

22. When a new document is available in a member's MSS account, MSS sends them an email to notify them that a document is waiting for them in their account; the email provides direction to log in to their MSS account to view and/or print the document. N.T. 35-36.

23. PSERS is notified if those emails are undeliverable. N.T. 36.

24. Claimant did not opt out of paperless delivery, and he provided PSERS with his personal email to be associated with his MSS account. N.T. 15-16, 37-38.

25. Claimant acknowledged that he chose to retain electronic, paperless delivery of documents and communications provided by PSERS. N.T. 10, 14.

26. Claimant's mail delivery preference from July 22, 2022, through January 19, 2023, was paperless delivery. N.T. 37-38, 55-56.

27. Claimant admitted it is his "fault" for not reviewing his electronic communications. N.T. 68.

28. When PSERS posted a document to Claimant's MSS account, an email was sent to his email address notifying him that a document was waiting, and that he should log in to his MSS account to view and/or print the document. N.T. 13, 17, 43, 46, 48, 50, 51.

29. Claimant acknowledged receiving these email notifications on his phone, explaining that he does not own a computer. N.T. 10, 17.

30. Members are not required to create an MSS account to apply for retirement. N.T. 34.

31. On July 28, 2022, Claimant requested, by phone, a retirement estimate. N.T. 42.

32. During the phone call regarding his retirement estimate, the representative informed Claimant that he must submit his *Application for Retirement* within 90 days of his date

of termination to receive retroactive benefits. N.T. 43.

33. During that call Claimant was offered, but declined, *Retirement Exit Counseling*. N.T. 43.

34. Members are strongly encouraged to attend a *Retirement Exit Counseling* session because they educate members on their retirement options and provide an opportunity for PSERS to review their retirement application for accuracy and completeness. N.T. 31, 45.

35. At hearing, Mr. Robison testified that PSERS encourages members who are considering retirement to attend larger group educational sessions, and within twelve months of a planned retirement, to request a staff provided retirement estimate. N.T. 31.

36. PSERS also encourages members to attend a small-group retirement exit counseling session, which provides the chance to educate members on the available options for future receipt of their retirement benefit. N.T. 31.

37. Mr. Robison testified that members may submit their *Application for Retirement* at the retirement exit counseling session. N.T. 31.

38. Claimant successfully accessed his MSS account on July 28, 2022, after speaking with the PSERS representative, and additional times thereafter. N.T. 41-44.

39. On August 1, 2022, PSERS provided Claimant with a *Normal Retirement Estimate*. N.T. 43.

40. The *Normal Retirement Estimate* was posted to his MSS account. N.T. 43.

41. An email was sent to Claimant notifying him that the document was available for him to view. N.T. 43.

42. Claimant successfully accessed his MSS account on August 9, 2022, after the *Normal Retirement Estimate* was posted to his account. N.T. 43-44.

43. Claimant does not recall if he received his *Normal Retirement Estimate*, but acknowledged he received “a lot” from PSERS. N.T. 17-18.

44. The retirement estimate provided an estimate of Claimant’s monthly check based on different selections. N.T. 44.

45. An application can be sent via postal mail, by fax or delivered in person to a regional office or the office in Harrisburg. N.T. 32.

46. Once an application is received, it is review for accuracy and completeness; if the application has been filed out accurately and in its entirety, PSERS will begin processing the member’s retirement benefit. N.T. 32.

47. A member is made aware of the final terms of the retirement benefit through their MSS account or via U.S. mail, depending on their delivery preference. N.T. 32.

48. Claimant requested a retirement estimate on July 28, 2022, the same day Claimant called and spoke with a representative at PSERS. N.T. 42-43.

49. Claimant’s retirement estimate was provided as a document in Claimant’s MSS account. N.T. 43.

50. Claimant accessed his MSS account after the letter was posted to the account. N.T. 43-44.

51. Claimant’s monthly check, with the maximum single life annuity and withdrawing no money, would be \$3,828; if he withdrew all of his eligible money under the maximum single life annuity, the monthly check would be \$2,923. N.T. 44-45.

52. PSERS received Claimant’s incomplete *Application for Retirement* on August 1, 2022. N.T. 45.

53. The *Application for Retirement* states:

To have your retirement start the day after your termination date, the Public School Employees' Retirement System (PSERS) must received this application within 90 days of your termination date (provided by your employer).

...

After 90 days beyond your termination date, your retirement date will be the date your application is received by PSERS...

PSERS-4; N.T. 33.

54. If an application is not completed within the 90-day period, a member does not retain their initial retirement date, and their retirement date become the date that PSERS receives the fully completed paperwork needed to properly process the application. N.T. 32-33.

55. Mr. Robison described that the Retirement Code mandates that a member must file an application within 90 days of termination to receive a retirement date retroactive to the day after termination; if a member fails to do so, the retirement date is the date the application is received. N.T. 33.

56. Members are made aware of the 90-day filing deadline during their exit counseling sessions and are provided such notice on the *Application for Retirement*. N.T. 33.

57. Claimant was informed of the 90-day deadline to submit his *Application for Retirement* and receive payments starting the day after his termination date. N.T. 45.

58. Members have the option to withdraw some or all of their contributions and interest and, if they decide to withdraw funds, the member must indicate the manner in which to receive the funds: either through a direct rollover or paid to the member, and in a tax-free or taxable manner. PSERS-4 page 2.

59. Claimant was estimated to receive \$3,828.00 per month if he chose the maximum single life annuity and withdrew no contributions and interest, or \$2,923.00 per month if he selected the maximum single life annuity and withdrew all of his contributions and interest. N.T.

44-45.

60. PSERS recommends that members attend a retirement exit counseling session.

N.T. 45.

61. Claimant elected to withdraw his total contributions and interest and to have the funds distributed through a direct rollover. N.T. 16-17, 19, 45-46.

62. Claimant's intent was to "leave [his] portion of it in," but he checked the box to withdraw his contributions and interest, and did not provide the form for where to disburse the money. N.T. 16-17.

63. Because Claimant elected a direct rollover of his contributions and interest, he was required to submit the *Authorization for Direct Rollover* (PSERS-1264) form. N.T. 46; PSERS-4 and PSERS-5.

64. The *Application for Retirement* instructs members that: "If you wish to directly rollover any portion of the money you withdraw into an eligible retirement plan, indicate your choice in the section and complete the *Authorization for Direct Rollover* (PSERS-1264)." PSERS-4.

65. The *Authorization for Direct Rollover* form requires that member's financial institution to, among other things, identify the type of account the funds will be rolled into, and certify it is an "Eligible Retirement Plan." PSERS-5.

66. Claimant did not submit an *Authorization for Direct Rollover* to PSERS with his *Application for Retirement*. N.T. 20-21, 46-47.

67. PSERS was unable to process Claimant's application because, despite noting in Section 4 that he was withdrawing all of his contributions and interest, he failed to include the required *Authorization for Direct Rollover* form. N.T. 45-46.

68. When PSERS receives an *Application for Retirement* that cannot be processed, PSERS sends the member an error notice. N.T. 32, 47-48, 57-58.

69. PSERS provided notice to Claimant informing him that PSERS required his completed *Authorization for Direct Rollover* form to complete processing of his retirement benefit. N.T. 46.

70. This notice was provided as a document in Claimant's MSS account, upon delivery of which he received an e-mail notification. N.T. 46.

71. The document further contained copies of the *Application for Retirement* and the *Authorization for Direct Rollover* form. N.T. 47.

72. When PSERS can calculate and process a retirement benefit, PSERS sends the member a finalized benefit letter. N.T. 32, 54.

73. It is PSERS' standard practice to communication with members through written documentation, including to notify members of an error on their application in writing. N.T. 47-48, 57-58.

74. By letter dated August 10, 2022, and posted to his MSS account, Claimant was notified that PSERS required additional information to process his retirement benefit. N.T. 46.

75. The letter notified Claimant that PSERS must receive the *Authorization for Direct Rollover* form by September 9, 2022, to retain his retirement date:

You indicated you wish to rollover your contributions and interest into a qualified retirement plan. To date, PSERS has not received the *Authorization for Direct Rollover* form.

...

PSERS must receive this information within 30 days of the date of this letter. If we do not receive your completed application(s) by September 9, 2022, your benefit will begin the date in which PSERS receives the completed information.

N.T. 46; PSERS-5.

76. The letter also included *Guidelines for Completing your Application for Retirement*, an *Application for Retirement*, an *Authorization for Direct Rollover* form, and PSERS' *Field Service Division* contact information sheet. PSERS-5; N.T. 47.

77. The *Guidelines for Completing your Application for Retirement* state, *inter alia*:

7. Section 4 – Withdrawal of Contributions and Interest:

An amount equal to your contributions and interest may be withdrawn. These are funds that are contributed plus interest paid on these funds. Monies in your account are shown on your annual *Statement of Account* and retirement estimate. This provides an estimate of the amount of money you have available to withdraw. Money withdrawn may be rolled over (paid directly to a qualified retirement plan with a financial institution you designate) or paid directly to you.

Indicate if you want to withdraw money. How much money do you wish to withdraw? All of the choice are in this section of the application. Remember – any money you chose to withdraw will reduce your monthly payment.

...

If you wish to roll over any portion of your money into an eligible retirement plan, indicate your choice in **Section 4 – Withdrawal of Contributions and Interest** and complete the *Authorization for Direct Rollover* (PSERS-1264).

IMPORTANT: Submit your completed rollover form with your application.

...

PSERS-5.

78. An email was sent to Claimant notifying him that this document was available for him to view in MSS. N.T. 46.

79. PSERS did not receive the requested *Authorization for Direct Rollover* form from Claimant by the September 9, 2022 deadline. N.T. 47.

80. By letter dated September 9, 2022, and posted to his MSS account, Claimant was notified that PSERS did not received a response to its request for information on August 10, 2022, and could not complete the processing of his retirement benefit until the information was

received. N.T. 48.

81. An email was sent to Claimant notifying his that the letter was available for him to view. N.T. 48.

82. By letter dated September 9, 2022, which was posted to members' MSS accounts and mailed, PSERS reminded all members with MSS accounts and paperless delivery, including Claimant, of their paperless delivery preference:

- 1) You were automatically enrolled into paperless delivery of information from PSERS.
- 2) Nearly all communication for PSERS will be delivered electronically into your MSS account, you will receive an e-mail notifying you when a document is available in the "My Documents" page in your account.

...

- 5) Check your email. Including your Spam and Junk folders to ensure important correspondence from PSERS is not missed, even if you added the above email addressed to your contacts.

...

- 7) To remain with paperless delivery, you do not need to do anything. If you wish to change your communication preferences

...

- 10) To ensure you receive the 10 important reminders in this letter, this letter has been sent to you through an email and via paper through the U.S. mail.

N.T. 49-50.

83. Mr. Robison testified that Claimant did not immediately attempt to change his delivery preferences. N.T. 50.

84. Claimant did not recall contacting PSERS around the time of this letter, or anytime between his submission on August 1, 2022, and December 2022. N.T. 24-25, 50, 53.

85. PSERS' sent final notice of Claimant's incomplete retirement application via his MSS account on October 9, 2022. N.T. 51.

86. By letter dated October 9, 2022, and posted to his MSS account, PSERS reminded Claimant that it did not receive a response to its request for information on August 10, 2022; that it could not complete the processing of his retirement benefit until the information was received; and that, if PSERS did not hear from Claimant within 30 days of the letter, PSERS would presume that Claimant did not wish to pursue the matter further and would withdraw Claimant's *Application for Retirement*. N.T. 51; PSERS-8.

87. An email was sent to Claimant notifying him that the letter was available for him to view. N.T. 51.

88. Claimant did not respond to PSERS within 30 days of the October 9, 2022 letter. N.T. 51-52.

89. PSERS did not receive the requested information within 30 days of the October 9 letter. N.T. 51-52.

90. On December 22, 2022 PSERS' received a handwritten note from Claimant and page 2 of 7 of his *Application for Retirement*, with the note indicating that he wanted to both withdraw his total contributions and interest with a direct rollover *and* that he did not want to withdraw any money. N.T. 52.

91. The note indicated "changes to section 4," but Claimant's choice was unclear because multiple boxes were checked, indicating that he wanted to both withdraw his total contributions and interest with a direct rollover *and* that he did not want to withdraw any money. N.T. 52.

92. Claimant did not submit an *Authorization for Direct Rollover* form. N.T. 25, 52, PSERS-9.

93. PSERS staff placed an outbound call to Claimant; Claimant clarified that he was

going to resubmit the application, indicating that he did not want to withdraw any of his contributions or interest. N.T. 52.

94. After Claimant confirmed the change from Claimant's original selection, PSERS was able to process his retirement benefit. N.T. 53.

95. The call is documented in his personal records. N.T. 53.

96. After Claimant confirmed his selection, PSERS was able to process his retirement application. N.T. 53.

97. Claimant did not contact PSERS between August 1, 2022, and December 2022, when he later submitted his completed application. N.T. 53.

98. Claimant is not arguing that he did not have the opportunity to withdraw his contributions and roll them over. N.T. 67.

99. By letter dated January 11, 2023, Claimant requested "paper mailing" of all documents and correspondence from PSERS. N.T. 26-27.

100. PSERS received a letter from Claimant on January 13, 2023, requesting that his delivery preference be switched to mail only. N.T. 55.

101. This request was not processed until January 19, 2023, after PSERS notified Claimant of his finalized retirement benefit via his MSS account. N.T. 54-56.

102. PSERS processed Claimant's request on January 19, 2024, and Claimant now receives documents and correspondence from PSERS by U.S. mail. N.T. 27, 55-56.

103. On January 19, 2023, PSERS notified Claimant via his MSS account of his finalized retirement benefit with an effective date of retirement of December 22, 2022 (i.e., the date PSERS received his completed application). N.T. 54.

104. By letter dated January 19, 2023, and posted to his MSS account, Claimant was

notified of his finalized retirement benefit with an effective date of December 22, 2022, the date on which PSERS received Claimant's completed *Application for Retirement*. N.T. 54.

105. As per PSERS' January 19 correspondence, Claimant's monthly benefit amount was \$3,455.60. N.T. 54-55.

106. The finalized retirement benefit letter included an *Intent to Change the Terms of Retirement Plan* document that explained the Intent to Change process. PSERS-10.

107. Claimant still has an MSS account, and most recently accessed the account on June 23, 2023. N.T. 41, 56.

Due Process

108. Claimant appealed his effective date of retirement to the Executive Staff Review Committee ("ESRC"). N.T. 27-28.

109. By letter dated January 30, 2024, the ESRC denied Claimant's request to change his effective date of retirement. N.T. 27-28, 56.

110. On February 23, 2024 Claimant filed an *Appeal and Request for Administrative Hearing*. Docket Entry.

111. On March 6, 2024 PSERS filed an *Answer* to Claimant's appeal. Docket Entry.

112. Respondent was afforded notice of the hearing. N.T. *passim*.

113. Respondent appeared at the hearing; was provided the opportunity to testify and admit evidence; was given the opportunity to object to the testimony and evidence presented by the Commonwealth, and; was ordered to file a responsive post-hearing brief in the matter. N.T. *passim*; Docket.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter. *See* 24 Pa.C.S. § 8101 *et seq.*
2. Claimant was afforded notice and an opportunity to be heard in connection with his appeal. Findings of Fact (“F.F”) 108-113.
3. Claimant had the burden of proving the facts he alleges in support of his claim. *Wingert v. State Employees’ Ret. Bd.*, 589 A.2d 269 (Pa. Cmwlth. 1991); *Frantz v. State Employees Ret. Bd.*, 560 A.2d 284 (Pa. Cmwlth. 1989).
4. The preponderance of evidence standard is the correct burden of proof to be applied in this administrative action. *Lansberry, Inc. v. Pennsylvania Public Utility Commission*, 578 A.2d 600 (Pa. Cmwlth. 1990), *petition for allowance of appeal denied*, 602 A.2d 868 (Pa. 1998); *Suber v. Pennsylvania Commission on Crime and Delinquency, Deputy Sheriff’s Education and Training Board*, 885 A.2d 678 (Pa. Cmwlth. 2005).
5. The preponderance of evidence standard has been explained as “such proof as leads the fact-finder ... to find that the existence of a contested fact is more probable than its nonexistence.” *Sigafoos v. Pennsylvania Board of Probation and Parole*, 503 A.2d 1076, 1079 (Pa. Cmwlth. 1986).
6. PSERS is a creature of statute and PSERS’ members have only those rights recognized by the Public School Employees’ Retirement Code, 24 Pa.C.S. § 8101 *et seq.* (“Retirement Code”) and none beyond. *Bittenbender v. State Employees’ Ret. Bd.*, 622 A.2d 403 (Pa. Cmwlth. 1992); *Burriss v. State Employees’ Ret. Bd.*, 745 A.2d 704 (Pa. Cmwlth. 2000); 24 Pa.C.S. § 8101 *et seq.*
7. Claimant has only those rights recognized by statute and none beyond. *Forman v. Pub. Sch. Emps.’ Ret. Bd.*, 778 A.2d 778, 780 (Pa. Cmwlth. 2001); *Bittenbender v. State*

Emps.' Ret. Bd., 622 A.2d 403, 405 (Pa. Cmwlth. 1992).

8. The Retirement Code defines “effective date of retirement” as the “first day following the date of termination of service of a member if he has properly filed an application for an annuity within 90 days of such date,” or, if after 90 days, the date of filing such application or the date specified on the application, whichever is later. 24 Pa.C.S. § 8102.

9. “Date of termination of service” is defined, in pertinent part, as the “last date of service for which pickup contributions are made for an active member.” 24 Pa.C.S. § 8102.

10. Upon termination of service, a member may elect to withdraw their accumulated deductions, vest their retirement rights, or receive an immediate annuity. 24 Pa.C.S. § 8507(f); 22 Pa. Code § 215.7(e).

11. According to the Retirement Code:

Failure to apply for annuity. – If a member is eligible to receive an annuity from the system and does not file a proper application within 90 days of termination of service, he shall be deemed to have elected to vest, and his annuity will become effective as of the date an application is filed with the board

24 Pa.C.S. § 8507(i).

12. Claimant failed in his burden to establish that PSERS received his completed *Application for Retirement* within 90 days following his date of termination of service, i.e., May 26, 2022, or by August 24, 2022, or by date specified on the application, i.e. September 9, 2022. *See* F.F. 50-62; *see also* 24 Pa.C.S. § 8102.

13. Claimant elected to vest his retirement rights because he did not submit an *Authorization for Direct Rollover* form to PSERS by September 9, 2022. F.F. 50-62.; 24 Pa.C.S. § 8507(f) and 22 Pa. Code § 215.7(e).

14. Pursuant to the Retirement Code, Claimant’s effective date of retirement is

December 22, 2022, the date PSERS received his completed *Application for Retirement*. 24 Pa.C.S. §§ 8102, 8507(i).

15. Claimant is receiving the retirement benefit he is entitled to according to his benefit selections and the calculations set forth in the Retirement Code. F.F. 14-107; 24 Pa.C.S. §§ 8342, 8345.

16. The Public School Employees' Retirement Board has no authority to grant rights to members beyond those specifically set forth in the Retirement Code and is therefore prohibited from "deeming" Claimant's effective date of retirement as May 26, 2022. *See Forman*, 778 A.2d at 780; *see also Allen v. Pub. Sch. Emps.' Ret. Bd.*, 848 A.2d 1031, 1033-34 (Pa. Cmwlth. 2004); *see also Marinucci v. State Emps.' Ret. Sys.*, 863 A.2d 43, 47 (Pa. Cmwlth. 2004).

DISCUSSION

The issue presenting is whether a member can retroactively change his date of effective date of retirement. For the reasons stated below, he cannot. In this matter, Claimant terminated his employment on May 26, 2022, and later filed an *Application for Retirement*. PSERS notified Claimant that his retirement date would not be until December 22, 2022 the date it received the completed *Application for Retirement*. Claimant requested PSERS to change his retirement date to his termination date. Through its ERSC, PSERS denied Claimant's request, leading to this appeal, in which he requests the same remedy.

It is well established that Claimant bears the burden of establishing the facts necessary to sustain his claim. *See Gierschick v. State Employees' Ret. Bd.*, 733 A.2d 29, 32 (Pa. Cmwlth. 1999); *see also Wingert v. State Employees' Ret. Bd.*, 589 A.2d 269, 271 (Pa. Cmwlth. 1991). Further, it is well established that the PSERS is a creature of statute, and its members only have those rights created by the Retirement Code and none beyond. *See e.g., Burris v. State Employees' Ret. Bd.*, 745 A.2d 704, 706 (Pa. Cmwlth. 2000); *Bittenbender v. State Employees' Ret. Bd.*, 622 A.2d 403, 405 (Pa. Cmwlth. 1992); *Hughes v. Public Sch. Employees' Ret. Bd.*, 662 A.2d 701, 706 (Pa. Cmwlth. 1995), *allocator denied*, 668 A.2d 1139 (Pa. 1996). While a member is entitled to a liberal construction of the Retirement Code, PSERS has no authority to grant rights beyond those specifically set forth in the Retirement Code. *Bittenbender*, 622 A.2d at 405; *Forman v. Public Sch. Employees' Ret. Bd.*, 778 A.2d 778, 779 (Pa. Cmwlth. 2011).

Under the Retirement Code, a PSERS member who desires to have his or her effective date of retirement be the day, following the date of termination of service, must ensure that PSERS receives his or her application for retirement within 90 days from the member's date of termination of service. 24 Pa.C.S. § 8102. The Retirement Code states, in pertinent part, as

follows:

“Effective date of retirement.” The first day following the date of termination of service of a member if he has properly filed an application for an annuity within 90 days of such date or:

(1) In the case of a member who applies for an annuity subsequent to 90 days after termination of service, the date of filing such application or the date specified in the application, whichever is later.

24 Pa.C.S. § 8102. By default, when PSERS receives an application for retirement beyond 90 days from the date of termination of service or beyond the date specified in the application, the member’s effective date of retirement becomes the date of PSERS’ receipt of such application. *Id.* Therefore, failure of a member to ensure that PSERS receives his or her application for retirement within 90 days - from the date of termination of service or on the date specified on the application - forecloses any opportunity for the member to have the effective date of his or her retirement coincide with the member’s termination of service. *See* 24 Pa.C.S. § 8102; *see also e.g., Account of Ruth A. Landry*, Docket No. 2009-07 (PSERB August 17, 2010).

A member may also elect to vest their retirements rights. Brief for the System at 18 (docketed on July 1, 2025). Pursuant to Section 8507(i) of the Retirement Code, a member will be deemed have elected to vest, and his annuity will become effective upon filing *Application for Retirement* upon the date of filing that application. 24 Pa.C.S. § 8507(i). The relevant section of the Retirement Code proceeds, in pertinent part, as follows:

Failure to apply for annuity. – If a member is eligible to receive an annuity from the system and does not file a proper application within 90 days of termination or service, he shall be deemed to have elected to vest, and his annuity will become effective as of the date an application is filed with the board or the date designated on the application whichever is later, provided that in no event shall a member begin receiving benefits on a date later than the required beginning date.

24 Pa.C.S. § 8507(i).

As established by the findings of fact,¹ Claimant's last date of employment was May 25, 2022, resulting in his effective termination date of May 26, 2022. F.F. 3. Claimant later submitted to PSERS a partially completed *Application for Retirement*, which was received on August 1, 2022. F.F. 52. Claimant attempted to elect a full withdrawal of his accumulated deductions via rollover, but did not submit the required *Authorization for Direct Rollover* form, rendering the application incomplete. F.F. 63-67. On August 10, 2022, PSERS issued Claimant a letter identifying the deficiency and instructing him to submit the required form or updated materials by September 9, 2022. F.F. 74. The August 10 letter was sent to Claimant via his then-preferred delivery method, his MSS account. F.F. 26. PSERS issued two subsequent reminder letters on September 9 and October 9, 2022, also posted to Claimant's MSS account. F.F. 75-79, 85-87. The record shows repeatedly, and without contradiction, that Claimant received email notifications alerting him to the presence of new correspondence in MSS but failed to log in to view or act upon them. F.F. 22, 23, 24, 28, 29, 41, 78, 81, 82, and 87.

Claimant testified that he did not own a computer and did not regularly access his MSS account. N.T. 10, 17, 68. He did not contact PSERS to inquire about the status of his application until December 22, 2022, nearly four months after the initial submission. F.F. 90. On that date, Claimant submitted a corrected application and verbally elected to cancel his rollover and retain his deductions in the system, thereby completing the retirement application. F.F. 90-96. PSERS marked the application as complete and received on December 22, 2022. F.F. 96.

Based on Claimant's May 25, 2022 date of termination of service, his 90-day deadline –

¹ In general, the degree of proof required to establish a case before an administrative tribunal is a preponderance of the evidence. *Lansberry v. Pennsylvania Public Utility Commission*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990). A preponderance of the evidence is generally understood to mean that the evidence demonstrates a fact is more likely to be true than not to be true, or if the burden were viewed as a balance scale, the evidence in support of the Claimant's case must weigh slightly more than the opposing evidence. *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854, 856 (Pa. 1950).

to file an application and receive retroactive benefits – was August 23, 2022. F.F. 3, 55; Conclusions of Law 8-12. The Code is unambiguous at §§ 8201 and 8507(i) (quoted above on page 21); a person who does not complete the required application cannot receive the benefit of retroactive date of retirement. *See generally Harasty v. Public Sch. Employees' Ret. Bd.*, 945 A.2d 783, 787-88 (Pa. Cmwlth. 2008); *Estate of Wilson by Killinger v. State Employees' Ret. Bd.*, 219 A.3d 1141, 1152-53 (Pa. 2019).

The System's attorney dedicates a section of her brief to the concept of equity; she correctly argues that equity does not apply. The Board does not possess equitable powers. Given the clarity of the statutory framework one would be hard pressed to make a good argument for equity (if the concept applied, which it does not).

Based on the above, the facts of record support the conclusion that Claimant did not file a completed *Application for Retirement* within the 90-day deadline or submit the requested *Authorization for Direct Rollover* before September 9, as instructed. His date of retirement cannot be made retroactive to his last date of employment. The Code does not authorize the Board to provide any remedy that would allow the Board to find that Claimant timely filed an *Application for Retirement* when, in fact, he did not do so. Based upon the foregoing, the undersigned makes the following recommendation:

**COMMONWEALTH OF PENNSYLVANIA
BEFORE THE PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD**

IN RE: :
: **ACCOUNT OF GREGORY W. SNOOK** : **DOCKET NO. 2024-06**
: **CLAIM OF GREGORY W. SNOOK** :

RECOMMENDATION

AND NOW, this 30th day of July, 2025, upon consideration of the foregoing Findings of Fact, Conclusions of Law, and Discussion the Hearing Officer for the Public School Employees' Retirement Board ("PSERB") recommends that the Board **DENY** Claimant's request to change the effective date of his retirement from December 22, 2022 to May 26, 2022 and **DENY** Claimant's request for retroactive payment of pension benefits between May 26, 2022 and December 22, 2022.

A party may file exceptions to this proposed opinion and recommendation in accordance with 1 Pa. Code §§ 35.211 and 35.212 (relating to procedure to except to proposed report; and content and form of briefs on exceptions). 22 Pa. Code § 201.11(d). Exceptions shall be filed with the below-noted Appeal Docket Administrator and must be received by July __, 2025, 30 days after the mailing date of this proposed opinion and memorandum. *See* 1 Pa. Code § 35.211 (participant desiring to appeal to the agency head shall, within 30 days after the service of a copy of a proposed report or such other time as may be fixed by the agency head, file exceptions to the proposed report or part thereof in brief on exceptions; brief opposing exceptions may be filed in response to briefs on exceptions within 20 days after the time limited for the filing of briefs on exceptions or such other time as may be fixed by the agency head). If exceptions are filed, the PSERB will rule upon the exceptions; PSERB may adopt or reject, in whole or in part, or supplement the proposed opinion and recommendation or issue its own opinion and order,

whether or not exceptions to the proposed opinion and recommendation are filed by any party.

22 Pa. Code § 201.11(c).

A legal assistant for the Office of Hearing Examiners will distribute this proposed opinion and recommendation to the Appeal Docket Administrator and the parties.



Michael T. Foerster
Hearing Officer

Claimant:

Mr. Gregory W. Snook


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Date of mailing:

8/4/25