



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PENSIONS AND BENEFITS
P. O. Box 295

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ELIZABETH MAHER MUOIO
State Treasurer

JOHN D. MEGARIOTIS
Acting Director

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

February 15, 2019

Zazzali, Fagella, Nowak, Kleinbaum & Friedman
Colin M. Lynch, Esq.

[REDACTED]
[REDACTED]

RE: John Abeigon

[REDACTED]

Dear Mr. Lynch:

FINAL ADMINISTRATIVE DETERMINATION

I am writing in reference to the decision by the Board of Trustees (Board) of the Teachers' Pensions and Annuity Fund (TPAF) regarding the Board's denial of your client, John Abeigon's, request to convert his Contributory Group Life Insurance. At its October 4, 2018 meeting, the Board denied Mr. Abeigon's request to convert his Contributory Group Life Insurance, essentially for the reasons outlined by the Division of Pensions and Benefits (Division) June 16, 2018 letter. On November 30, 2018, you appealed the Board's decision and requested that the matter be transmitted to the Office of Administrative Law (OAL).

At its meeting on January 10, 2019, the Board determined that there are no material facts in dispute, denied your request for a hearing, and directed the Board Secretary in conjunction with the Attorney General's Office to prepare Findings of Fact and Conclusions of Law, which were presented and approved by the TPAF Board at its February 7, 2019 meeting.

The TPAF Board has reviewed your written submissions and the relevant documentation and finds that the relevant case law governing the TPAF does not permit the Board to grant Mr. Abeigon's request to convert his Contributory Life Insurance.

FINDINGS OF FACT

The Board made the following findings of fact:

According to the records of the Division, on September 3, 2010, John Abeigon was notified by Mark Schwedes, CEBS, Assistant Chief, Enrollment and Purchase Bureau that C.198 PL 1989 and C.368 PL 2005, permitted certain members of the TPAF and Public Employees Retirement System (PERS) to obtain pension service credit for leave of absence while serving as an elected or appointed officer or representative of a State labor organization which represents New Jersey public employees. While contributions were no longer accepted by the Division, Mr. Abeigon could purchase his qualified union service as a personal leave of absence (Union Leave). The letter goes on to state that “[I]t is the member’s responsibility to ensure the timely submission of any properly completed forms required by the Division.” Regarding his life insurance coverage, Mr. Abeigon was informed that Union Leave was a non-illness leave of absence. As a result, a member was only covered for a limited time. Non-contributory Life Insurance is in effect for 93 days from the starting date of the Union Leave. Contributory Life Insurance coverage normally expires 31 days after the start of the Union Leave. Members can make personal payments to the Division for additional contributory coverage for the subsequent two months. After expiration of the 93 days of coverage, members have the option to convert their life insurance to a private policy with Prudential. The conversion application must be made directly to Prudential within 31 days of the active life insurance termination. The letter goes on to explain that “[D]ue to the Division’s delay in fully addressing the above conversion issue, the time for your Contributory Life insurance conversion with Prudential has been extended for 31 days from the date of this letter. All requests for life insurance conversion must be made directly to Prudential Life insurance.” Thereafter, Mr. Abeigon had until October 4, 2010 to submit an application to Prudential to convert his Contributory Group Life Insurance policy. However, no such request was

Colin Lynch, Esq.
Re: John Abeigon
February 15, 2019
Page 3

received until October 20, 2010. By fax dated November 4, 2010, the Division was notified that the conversion application for Mr. Abeigon had been denied.

By letter dated January 9, 2015, you filed an appeal on behalf of your client, John Abeigon, requesting that he be permitted to purchase his Union Leave starting with Fiscal Year 2011 through Fiscal Year 2014 at a cost lower than the rate that was in effect for this period. In addition, you requested that Mr. Abeigon be permitted an opportunity to convert his contributory life insurance benefit. You were informed by Mary Ellen Rathbun, Secretary, Board of Trustees, that your appeal regarding the cost of membership contributions to the Division would be referred to Timothy McMullen, Budget and Compliance. Regarding the appeal of the Contributory Life Insurance, Ms. Rathbun referred back to the letter of September 10, 2010 which set forth the procedures for converting the Contributory Group Life Insurance.

By email dated April 10, 2018, you requested a Verification of Life Insurance letter. You were advised by Edward Foley, Adjustment Section, that Mr. Abeigon does not have life insurance while he remains on Union Leave as his life insurance under TPAF expired some time ago. Mr. Foley forwarded a copy of the Division letter dated September 3, 2010 explaining Mr. Abeigon's options regarding life insurance at that time. This email was forwarded to both Mr. Abeigon and Subrina Screven, Assistant to the Secretary-Treasurer, Newark Teachers Union, Newark, NJ. At this point, Mr. Abeigon requested to enter his attorney, Colin Lynch, Esq. in the email chain for his review. On May 24, 2018, you appealed on behalf of Mr. Abeigon, the determination of Mr. Edward Foley, Adjustment Section, regarding Mr. Abeigon's ineligibility for both Non-Contributory and Contributory Life Insurance available through the TPAF.

By letter dated June 16, 2018, Cheryl N. Chianese, Chief, Operations, advised you that as explained in Mr. Schwedes' letter of September 2010, since Mr. Abeigon was afforded additional time to file for a conversion of life insurance coverage in 2010 and since he did not contact the Division or Prudential regarding converting his Contributory portion during the extended time frame allotted, she

Colin Lynch, Esq.
Re: John Abeigon
February 15, 2019
Page 4

must deny his request to convert at this time. In that same letter, Mr. Abeigon was provided with the procedure to appeal the administrative determination.

On August 1, 2018, you filed an appeal on behalf of Mr. Abeigon concerning his ineligibility for both Non-Contributory and Contributory Life Insurance available through the TPAF.

At its meeting of October 4, 2018, the Board upheld the administrative determination dated June 16, 2018 and denied your request that Mr. Abeigon be afforded the opportunity to convert his Contributory Life Insurance. As part of its denial, the Board noted that your submission and presentation referenced a life insurance policy Mr. Abeigon has with the Principal Financial Group. However, this policy is not through the TPAF, as the TPAF's Contributory Group Life Insurance that is administered by Prudential. In addition, the Board did explain that if Mr. Abeigon returns to active service with the TPAF prior to retiring, he will be eligible for both Contributory and Non-Contributory insurance. On December 5, 2018, the Division received your appeal letter of November 30, 2018, wherein you disagreed with the Board's determination and requested an administrative hearing.

At its meeting of February 7, 2019, the TPAF Board noted that you received a Statement of Account dated February 4, 2019 which listed that you were eligible for life insurance. By letter dated February 6, 2019 from Cheryl Chianese, Chief, Operations, Retirements/Beneficiary Services, you currently do not have Group Life Insurance Coverage in the amount of 3 ½ times you salary while you are on the Union Leave. If you are requesting this Statement of Account as proof you have insurance coverage, please know this Statement will not accurately reflect the insurance benefit as you are in a unique situation. For reporting purposes and to ensure that when you file for a retirement benefit, your life insurance benefits are properly calculated, your insurance code has remained as BOTH (Non-Contributory and Contributory) on the Pension Member Master Record (PMMR). As such, a program update has been requested to your Member Benefits Online System (MBOS) that will require you to contact the Office of Client Services for updated benefit information.

Conclusions of Law

After careful consideration of the facts in this matter, the TPAF Board upheld the Division of Pensions and Benefits' administrative determination and denied Mr. Abeigon's request. The Board's decision is based on the provisions of N.J.A.C. 17:3-3.10.

N.J.A.C. 17:3-3.10 states:

(a) Contributory insurance coverage will remain in effect for up to two years while a member is on an official leave of absence without pay for the personal illness of the member and without premiums paid by the member. The employer shall provide to the Division proof of the official leave of absence.

(b) Contributory insurance coverage will remain in effect while a member is on an official leave of absence without pay for the following reasons, provided that insurance premiums are paid by the member within 31 days of the official start date of the leave. It is the member's responsibility to make arrangements directly with the Division to continue these premium payments:

1. Up to one year to fulfill a residency requirement for an advanced degree; or as a full-time student at an institution of higher education; and
2. Up to 93 days on an official leave for any other reason.

(c) Contributory insurance coverage will remain in effect for members who are receiving periodic benefits directly from workers' compensation. No premiums are required pursuant to N.J.S.A. 18A:66-32.1.

You were informed in the October 19, 2018 letter denying Mr. Abeigon's request to convert his Contributory Group Life Insurance that if Mr. Abeigon wished to continue coverage under the Contributory Group Life , he needed to contact Prudential to convert the policy within 31 days from the date of the September 3, 2010 letter. The record shows that Mr. Abeigon failed to respond within the required time frame. Based upon the provisions of the law, Mr. Abeigon had until October 4, 2010 to submit an application to convert his Contributory Group Life Insurance policy. However, the record indicates that no such application was received by Prudential until October 20, 2010. Therefore, there are no equitable arguments in favor of allowing Mr. Abeigon to appeal the TPAF Board's decision. The determination of the TPAF Board on October 4, 2018, is the final administrative action in this matter.

Colin Lynch, Esq.
Re: John Abeigon
February 15, 2019
Page 6

The TPAF Board finds that the regulatory language above is clear and unambiguous. Because this matter does not entail any disputed questions of fact, the TPAF Board was able to reach its findings of fact and conclusions of law in this matter on the basis of the retirement system's enabling statutes and without the need for an administrative hearing. Your request for a hearing in the Office of Administrative Law therefore is denied. Accordingly, this correspondence shall constitute the Final Administrative Determination of the Board of Trustees of the Teachers' Pension and Annuity Fund.

You have the right, if you wish, to appeal this final administrative action to the Superior Court of New Jersey, Appellate Division, within 45 days from the date of this letter, in accordance with the Rules Governing the Courts of the State of New Jersey. All appeals should be directed to:

Superior Court of New Jersey
Appellate Division
Attn: Court Clerk
PO Box 006
Trenton, NJ 08625
Phone: (609) 292-4822

Sincerely,



Angelina Scales, Secretary
Board of Trustees
Teachers' Pension and Annuity Fund

G-8

c: DAG Amy Chung (ET)
DAG Robert Garrison (ET)
C. Chianese/L. Barnett/E. Foley/J. Slomko/V. Tarr (ET)
John Abeigon