

3-2-05

STATE OF FLORIDA
DEPARTMENT OF MANAGEMENT SERVICES

FILED
05 APR -5 AM 9:25
DIVISION OF
ADMINISTRATIVE
HEARINGS

RICHARD P. BALEZENTIS,

Petitioner,

Final Order No. DMS – 05-009

vs.

Case No. DOAH 04-3263
OGC #04-03164

pmk
Cwb

**DEPARTMENT OF MANAGEMENT SERVICES,
DIVISION OF RETIREMENT,**

Respondent.

_____ /

FINAL ORDER

Pursuant to notice, the above-styled cause was heard December 13, 2004, in Jacksonville, Florida, by P. Michael Ruff, Administrative Law Judge of the Division of Administrative Hearings, Tallahassee, Florida.

APPEARANCES

For Petitioner: Rich Balezentis, pro se
1126 Wards Place
Jacksonville, FL 32259

For Respondent: Robert B. Button, Esquire
Department of Management Services
Division of Retirement
4050 Esplanade Way, Suite 160
Tallahassee, Florida 32399

STATEMENT OF THE ISSUE

Whether the Petitioner is eligible to purchase out-of-state creditable service under the Florida Retirement System (FRS), for employment in September and October 1973, with the

Maryland State Teachers Retirement System (MSTRS), in accordance with Section 121.1115, Florida Statutes.

PRELIMINARY STATEMENT

This case arose upon the issuance of a final agency action letter on June 4, 2004, by Respondent, Department of Management Services, Division of Retirement (Division) in which it denied the Petitioner's request to be credited with two months of out-of-state services as a teacher with the Hartford County Public Schools in Maryland. The Petitioner petitioned for a formal proceeding based upon that denial and the cause was ultimately transferred to P. Michael Ruff, Administrative Law Judge for hearing.

The cause came for hearing in Jacksonville, Florida on December 13, 2004. The Petitioner testified on his own behalf and Joint Exhibits 1-5, consisting of official records of the Department of Management Services, as well as correspondence from the MSTRS, were submitted into evidence. Additionally, the Respondent adduced the testimony of Douglas Cherry, Benefits Administrator, testifying on behalf of the Division. Upon conclusion of the hearing, the parties requested a transcript thereof, which was filed, and timely submitted Proposed Recommended Orders, which were due February 22, 2005. A Recommended Order was issued March 2, 2005, recommending denial of the Petitioner's request to purchase out-of-state service. The record, exhibits, and testimony of the Division witness and Petitioner have been considered, along with the applicable statutory and administrative authority. The Petitioner's exceptions to the Recommended Order have been considered and rejected as irrelevant, amounting to little more than insulting ad hominem attacks of the integrity of the judge and Division's witness.

FINDINGS OF FACT

The Findings of Fact in the Recommended Order, attached hereto, are incorporated by reference herein.

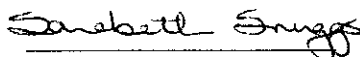
CONCLUSIONS OF LAW

The Conclusions of Law in the Recommended Order, attached hereto, are incorporated by reference herein.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is, therefore, ORDERED the Petitioner's requested to purchase out-of-state service credit for the months of September and October 1973, preceding his participation in the Maryland State Teachers Retirement System (MSTRS), is DENIED.

DONE AND ENTERED this 4th day of April, 2005, at Division of Retirement headquarters, Tallahassee, Florida.



Sarabeth Snuggs
State Retirement Director
Division of Retirement
Department of Management
2639 North Monroe Street, Building C
Tallahassee, Florida 32399-1560

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF

MANAGEMENT SERVICES, 4050 ESPLANADE WAY, SUITE 260, TALLAHASSEE, FLORIDA 32399-0950, AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN 30 DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

COPIES FURNISHED:

Rich Balezentis
1126 Wards Place
Jacksonville, FL 32259

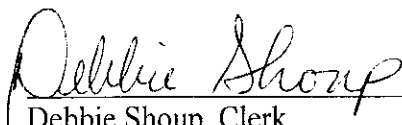
Robert B. Button
Assistant General Counsel
Department of Management Services
4050 Esplanade Way, Suite 160
Tallahassee, Florida 32399-0950

Alberto Dominguez
General Counsel
Department of Management Services
4050 Esplanade Way, Suite 160
Tallahassee, Florida 32399-0950

P. Michael Ruff
Administrative Law Judge
Division of Administrative Hearings
The Desoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060

CERTIFICATE OF CLERK

I HEREBY CERTIFY that this Final Order was filed in the official records of the Department of Management Services and copies were furnished to the parties above this 4th day of APRIL 2005.


Debbie Shoup, Clerk
Department of Management Services
4050 Esplanade Way, Suite 160
Tallahassee, Florida 32399-0950