

STATE OF FLORIDA
DEPARTMENT OF MANAGEMENT SERVICES

FILED

2009 SEP 15 P 1:33

DIVISION OF
ADMINISTRATIVE
HEARINGS

BRIAN PRINCE AND
WENDY RIVERS,

Final Order No. DMS - 09-0072

Petitioners,

DOAH Case No. 09-2582
OGC Case No. 09-17099

v.

DEPARTMENT OF MANAGEMENT
SERVICES, DIVISION OF RETIREMENT,

Respondent.

FINAL ORDER

This cause came before the Department of Management Services for the purpose of issuing a final agency order.

APPEARANCES

For Petitioner: Brian Prince, pro se
1063 Walden Road
Tallahassee, Florida 32317

For Respondent: Elizabeth Stevens, Esquire
4050 Esplanade Way, Ste. 160
Tallahassee, Florida 32399

STATEMENT OF THE ISSUE

Whether Petitioners are entitled to Option 2 continuing retirement benefits following the death of Linda Prince, a Florida Retirement System member, who passed away prior to her effective retirement date.

PRELIMINARY STATEMENT

Pursuant to notice, Respondent advised Petitioners that they were not entitled to Option 2 continuing retirement

benefits from Linda Prince's Florida Retirement System account. The notice afforded Petitioner a point of entry to challenge Respondent's proposed action and to request an administrative review of the issue. Petitioner timely filed a request for administrative hearing. Thereafter, the matter was transferred to the Division of Administrative Hearings for the assignment of an administrative law judge to conduct a formal hearing.

The matter was heard on July 22, 2009 before administrative law judge Linda M. Rigot. Petitioner presented the testimony of Annie Lamb, Samantha Andrews, Harrison T. Rivers, and Harrison W. Rivers. Respondent presented the testimony of Brian Prince and Paula Kazmirski. Additionally, Petitioners' Exhibit numbered 1 and Respondent's Exhibits numbered 1-9 were admitted in evidence.

No transcript of the hearing was ordered, and the parties timely filed their respective Proposed Recommended Orders. The administrative law judge entered a Recommended Order on August 10, 2009, which is attached hereto and incorporated herein as "Exhibit A."

Pursuant to Uniform Rules, Section 28-106.217, Florida Administrative Code, exceptions may be filed within 15 days of the date of entry of a Recommended Order. No exceptions were filed by either party.

FINDINGS OF FACT

The Department hereby adopts and incorporates by reference the Findings of Fact set forth in the Recommended Order.


CONCLUSIONS OF LAW

The Department hereby adopts and incorporates by reference the Conclusions of Law set forth in the Recommended Order.

Based upon the foregoing it is,

ORDERED and DIRECTED that Petitioners are ineligible for Florida Retirement System Option 2 benefits from the account of Linda Prince.

DONE AND ORDERED this 11 day of Sept,
2009.



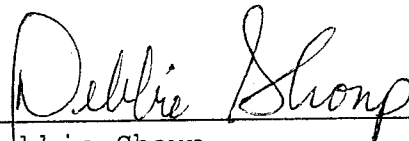
Linda South, Secretary
Department of Management Services
4050 Esplanade Way, Suite 285
Tallahassee, Florida 32399-0950

NOTICE OF 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 160, 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.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that this Final Order was filed in the official records of the Department of Management Services, and copies were furnished to Judge Linda M. Rigot, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; Brian Prince, 1063 Walden Road, Tallahassee, Florida 32317; Wendy Rivers, 4211 Camden Road, Tallahassee, Florida 32303; and Elizabeth Stevens, Esquire, 4050 Esplanade Way, Ste. 160, Tallahassee, Florida 32399, this 14th day of September, 2009.



Debbie Shoup
Clerk
Dept. of Management Services
(850) 487-1082