

STATE OF INDIANA ) SS:

BEFORE THE STATE BOARD OF THE PUBLIC  
EMPLOYEES' RETIREMENT FUND

IN THE MATTER OF RUTH K. YODER CAUSE NO. 86-25

ADMINISTRATIVE ADJUDICATION

The above referenced matter came on to be heard in accordance with IC 4-22-1-1 by the duly appointed hearing officer, Burton L. Garten, on the 7th day of January, 1987 in the offices of the Public Employees' Retirement Fund, Suite 800 Harrison Building, 143 West Market Street, Indianapolis, Indiana 46204. Respondent, the Public Employees' Retirement Fund, was represented by H. Dudley Miller and the petitioner, Ruth K. Yoder, was not represented by counsel.

Testimony and exhibits were heard and admitted as evidence.

Burton L. Garten now recommends transfer of the hearing findings of fact and decision to the State Board for its final decision and disposition of said matter.

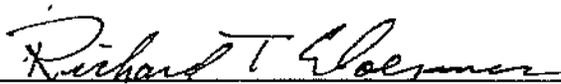
FINDINGS OF FACT AND DECISION AND CONCLUSIONS  
OF LAW ARE FOUND IN THE ATTACHED REPORT  
OF THE HEARING DATED JANUARY 7, 1987

ADMINISTRATIVE ORDER

Based on the foregoing, the State Board of the Public Employees' Retirement Fund does hereby deny service credit to Mrs. Ruth K. Yoder for the periods during which she was paid from the personal funds of the Miami County Clerk, pursuant to IC 5-10.2-3-1.

All of which is ordered this 20<sup>th</sup> day of February, 19 87.

Richard T. Doermer, Chairman  
Al H. Harding, Jr., Vice Chairman  
Myrl W. Deitch, Jr., Trustee  
Marie T. Lauck, Trustee  
Marjorie Meyer, Trustee

  
Board of Trustees  
Public Employees' Retirement Fund

STATE OF INDIANA  
PUBLIC EMPLOYEES' RETIREMENT FUND  
143 WEST MARKET STREET, SUITE 800  
INDIANAPOLIS, INDIANA 46204

In the matter of receiving additional evidence for the review of the findings of fact and the initial determination of the Public Employees' Retirement Fund on the application for service credit under IC 5-10.2-3-1 by Ruth K. Yoder.

Reason for Action: PERF initial determination letter dated October 20, 1986 denying service credit to Ruth K. Yoder.

Hearing date: January 7, 1987    Place:    Public Employees' Retirement Fund  
PERF Conference Room-Harrison Bldg.  
143 West Market Street  
Indianapolis, IN 46204

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FINDING OF FACT AND DETERMINATION

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The above matter coming to be heard before Burton L. Garten, duly appointed to conduct administrative hearings, are provided by the Administrative Adjudication Act, Indiana Code 4-22-1.

The Public Employees' Retirement Fund (respondent) was represented by H. Dudley Miller. Ruth K. Yoder (petitioner) was not represented by counsel.

Petitioner's Exhibits

Copy of:

1. Letter of objection by Mrs. Ruth K. Yoder dated November 3, 1986 along with 6 Certificates of Membership (4 pages).

Respondent's Exhibits

1. Letter of April 29, 1981 from Harold L. Smith, Miami County Auditor to Mrs. Phillis V. Moore, Service Counselor, PERF. (1 page)
2. Letter of November 17, 1980 from Mrs. Margaret Burkhardt, Deputy Auditor of Miami County to Phillis V. Lockhart, PERF. (2 pages)
3. A page showing the periods of time during which Mrs. Yoder worked for and was paid by Miami County.

FACTS:

Mrs. Ruth K. Yoder was employed by the Miami County Auditor on November 1, 1963. Miami County verified her months of work by letter of November 17, 1980 by Mrs. Margaret Burkhardt, Deputy Auditor of Miami County. On April 29, 1981 Harold L. Smith, Miami County Auditor wrote a letter to Mrs. Phillis V. Moore of the Public Employees' Retirement Fund in regard to Mrs. Yoder's service time with the county. He explained that for part of the years she was paid by the county and for part of the years she was paid from the county clerk's own personal funds. He was unable to fulfill his duties on his own so he paid Mrs. Yoder to help him.

From August 20, 1979 through November 30, 1986 Mrs. Yoder was employed full-time and was a member of PERF through the Department of Natural Resources.

Mrs. Yoder objected to the initial determination letter of October 20, 1986. A hearing was held on January 7, 1987.

FINDINGS:

Indiana Code 5-10.2-3-1 reads in part:

"Creditable Service - (a) Each member's creditable service, for the purpose of computing benefits under this article, consists of all service in a position covered by a retirement fund plus all other service for which the retirement fund law gives credit."

It has been established, pursuant to IC 5-10.2-3-1, that:

1. Mrs. Ruth K. Yoder was employed by Miami County on November 1, 1963.
2. Mrs. Yoder's service time in the Miami County Clerk's Office, that which was paid by the county, has been certified by Miami County.
3. Mrs. Yoder's service time in the Miami County Clerk's Office, that which was paid directly out of the County Clerk's personal funds, is not creditable service time.
4. The creditable service time of Mrs. Ruth K. Yoder will be calculated and communicated to her shortly after receipt of this recommendation.

DECISION AND CONCLUSIONS OF LAW:

Based upon the testimony, and in view of the above facts and findings, I, Burton L. Garten, duly appointed administrative law judge for the State Board of the Public Employees' Retirement Fund, would recommend denying creditable service for the time she worked and was paid directly out of the Miami County Clerk's personal funds.

January 30, 1987

  
Burton L. Garten  
Administrative Law Judge  
Public Employees' Retirement Fund