

**BEFORE AN ADMINISTRATIVE LAW JUDGE
FOR THE INDIANA PUBLIC RETIREMENT SYSTEM**

IN THE MATTER OF)	Public Employees' Retirement Fund
)	
SANDRA O'GWIN,)	
)	
Petitioner.)	

FINAL ORDER

The Board of Trustees ("Board") of the Indiana Public Retirement System ("INPRS") is the ultimate authority in administrative appeals brought by members of the Public Employees' Retirement Fund ("PERF") under IC 4-21.5-3-28. In the Statement of Board Governance, the Board delegates to the Executive Director the authority to conduct a final authority proceeding, or a review of decision points by the administrative law judge ("ALJ"), to issue a final order in this matter.

1. Respondent appealed INPRS' initial determination that Respondent was entitled to an additional two years and six months (2.5 years) of pension eligibility service, giving her fifteen years of total service and thus vested status to receive a PERF pension benefit. However, Respondent's pension benefit would be calculated based on her twelve years and six months (12.5 years) of creditable service.
2. The ALJ entered a Final Order Granting the Respondent's Motion to Dismiss Petitioner's Appeal ("Order") on July 30, 2018.
3. Copies of the Order have been served upon the parties.
4. Pursuant to IC 4-21.5-3-29(d)(2), 35 IAC 1.2-7-3(b)(7), and Indiana Trial Rule 4.17(B)(2), it has been more than fifteen (15) days since the ALJ served the Order upon the parties.
5. No objections to the Order have been filed.

NOW THEREFORE the Order of the Administrative Law Judge is affirmed.

DATED August 22nd, 2018.

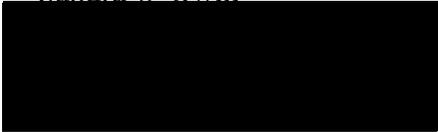


Steve Russo, Executive Director
Indiana Public Retirement System
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Indianapolis, IN 46204

CERTIFICATE OF SERVICE

I certify that on the 22nd day of August, 2018, service of a true and complete copy of the foregoing was made upon each party or attorney of record herein by depositing same in the United States mail in envelopes properly addressed to each of them and with sufficient first class postage affixed, and by email.

Distribution:

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BEFORE AN ADMINISTRATIVE LAW JUDGE
OF THE INDIANA PUBLIC RETIREMENT SYSTEM

IN THE MATTER OF)	PUBLIC EMPLOYEES'
SANDRA O'GWIN,)	RETIREMENT FUND
)	
)	
Petitioner)	Respondent

**FINAL ORDER GRANTING THE RESPONDENT'S
MOTION TO DISMISS PETITIONER'S APPEAL**

This matter is before the Administrative Law Judge on the Respondent's Motion to Dismiss Petitioner's Appeal which was filed on or about May 10, 2018 (the "Motion to Dismiss"). The chronology of this Appeal is set forth below:

1. On September 21, 2017, INPRS, notified the Petitioner, Ms. O'Gwin, of its determination that she had twelve (12) and six (6) months of creditable service that served as the basis of Petitioner's pension amount. The notification was served by certified mail.
2. INPRS received Ms. O'Gwin's request for review on October 13, 2017.
3. On October 18, 2017, the undersigned Administrative Law Judge (the "ALJ"), sent a Notice of Initial Prehearing Conference, via e-mail and United States mail, setting the matter for a Prehearing Conference on November 2, 2017 (the "Notice").
4. The Notice sent to Ms. O'Gwin was returned to the ALJ as undeliverable.
5. On November 2, 2017, at 10:00 am, the ALJ was on the line for the Prehearing Conference Call, Robert Hooker, R. Thomas Parker and Donna Frank also participated on behalf of INPRS. Ms. O'Gwin did not call in to participate in the Prehearing Conference Call. INPRS requested the matter

be rescheduled and advised that it did not intend to seek a default judgment at that time.

6. On November 2, 2017, at approximately 1:00 pm Ms. O’Gwin contacted the ALJ, via e-mail, to confirm the call would proceed at 2:00 pm. The undersigned responded to Ms. O’Gwin and copied Mr. Hooker, Mr. Parker, and Ms. Frank advising Ms. O’Gwin the Prehearing Conference Call took place at 10:00 am and that the call had been rescheduled to November 16, 2017. The ALJ sent out a Notice of Revised Initial Prehearing Conference Call on November 2, 2017, rescheduling the Initial Prehearing Conference Call to November 16, 2017, at 10:00 am (the “Revised Notice”). The Revised Notice was sent via e-mail and United States mail.
7. The Revised Notice sent to Ms. O’Gwin was returned to the ALJ as undeliverable.
8. The Prehearing Conference Call was held on November 16, 2017, at 10 am (the “November 16 Conference Call”). The ALJ, Ms. O’Gwin and INPRS, by R. Thomas Parker, Robert Hooker, and Donna Frank, participated in the call. During the call, the ALJ requested and Ms. O’Gwin provided her mailing address. Ms. O’Gwin stated she filed the appeal since she had documentation verifying she worked for agencies covered by INPRS for time periods not reflected in the INPRS determination of her creditable service (the “Documents”).

9. The ALJ issued an Order Following Initial Prehearing Conference Call provided that Ms. O’Gwin was to provide copies of the Documents on a disc or thumb drive to Mr. Hooker at INPRS by December 18, 2017.
10. On December 13, 2017, Ms. O’Gwin sent the ALJ and INPRS an e-mail requesting an additional two (2) days to provide the Documents to INPRS. Mr. Hooker advised, via e-mail, that INPRS did not object to the e-mail being treated as a Motion for an Extension of Time and that INPRS did not object to the Motion for Extension of Time.
11. On December 18, 2017, the ALJ issued an Order on Petitioner’s Motion for Extension of Time granting Petitioner until December 27, 2017, to submit the Documents and amending all other dates in the matter. A status call was scheduled for January 31, 2018 (the “Status Call”).
12. The Status Call was held in this matter on January 31, 2018. The ALJ, Ms. O’Gwin, and INPRS, by Robert Hooker and Donna Frank, participated in the Status Call. During the Status Call Ms. O’Gwin was given until April 2, 2018, to file a Motion for Summary Judgment.
13. On March 29, 2018, Petitioner e-mailed the ALJ, copying INPRS, requesting an additional thirty (30) days to file a Motion for Summary Judgment. INPRS indicated it did not object to the e-mail being treated as a Motion for Additional Time and did not object to the Motion for Additional Time being granted as long as all other deadlines were adjusted accordingly.

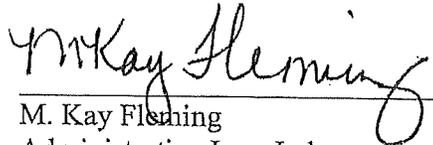
14. On March 30, 2018, the ALJ issued an Order granting the Petitioner's Motion for Additional Time and establishing a revised timeline in the matter, including an order that the Petitioner submit her Motion for Summary Judgment by May 2, 2018.
15. Petitioner has not filed a Motion for Summary Judgment in this matter.
16. On May 10, 2018, the Respondent its Motion to Dismiss due to Petitioner's failure to file a Motion for Summary Judgment or to meet her obligation to bring her case in this matter. The Respondent sent the Motion to Dismiss via e-mail and certified mail to the address the Petitioner provided during the November 16 Conference Call.
17. On May 23, 2018, the ALJ issued an Order Scheduling a Conference Call regarding the Motion to Dismiss (the "May 23 Order"). The Conference Call was scheduled for June 12, 2018. The May 23 Order was sent via e-mail and certified mail to the address the Petitioner provided during the November 16 Conference Call. The Order provided, in pertinent part, that "A party that fails to participate in the prehearing conference, or in any subsequent conference or hearing, may be held in default or face dismissal under Indiana Code § 4-21.5-3-24." (Page 3, Paragraph 1)
18. On June 12, 2018, the ALJ and INPRS, by Mr. Hooker, Ms. Frank, Mr. Parker, and Jeff Gill, participated on the Conference Call. Ms. O'Gwin did not participate in the call, advise the ALJ that she could not participate in the call or contact anyone in connection with the Motion to Dismiss.

19. The Respondent has not taken any action on this matter since March 28, 2018, which is a period in excess of sixty (60) days. Respondent has not filed a Motion for Summary Judgment, requested additional time, or advised the ALJ that Respondent would not be filing a Motion for Summary Judgment.
20. On June 19, 2018, the undersigned ALJ issued a Proposed Order Granting the Respondent's Motion to Dismiss Petitioner's Appeal (the "Proposed Order") by both e-mail with a "Read Receipt" request and by certified mail to the address the Petitioner provided during the November 17, 2017, Initial Prehearing Conference Call. The undersigned ALJ did not receive a read receipt from the Petitioner. Attached is the Certified Mail Delivery Confirmation (the "Confirmation") for the Proposed Order that was sent to Petitioner on June 19, 2018. The Confirmation shows that the Proposed Order was delivered to the address the Petitioner provided on June 22, 2018.
21. The Petitioner has failed to respond within the seven (7) day period following her receipt of the Proposed Order.

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Therefore, after having considered the foregoing, INPRS' Motion to Dismiss
Petitioner's Appeal is hereby GRANTED.

IT IS SO ORDERED this 30th day of July, 2018.


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Certified Mail Electronic Delivery Confirmation™



Fleming Stage LLC
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INDIANAPOLIS IN 46240-2338

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USPS CERTIFIED MAIL



9407 1108 9876 5013 4984 39

Sandra OGwin



Reference INPRS Proposed Order on Motion to Dismiss

USPS # 9407110898765013498439

USPS Mail Class Certified with Electronic Delivery Confirmation

USPS Status Your item was delivered to an individual at the address at 1:10 pm on June 22, 2018 in INDIANAPOLIS, IN 46222.

Arrived at Unit, June 22, 2018, 8:45 am, INDIANAPOLIS, IN 46222
 Departed USPS Regional Facility, June 22, 2018, 2:00 am, INDIANAPOLIS IN DISTRIBUTION CENTER

USPS History Arrived at USPS Regional Facility, June 21, 2018, 8:55 pm, INDIANAPOLIS IN DISTRIBUTION CENTER
 Accepted at USPS Origin Facility, June 21, 2018, 7:40 pm, INDIANAPOLIS, IN 46240
 Shipping Label Created, USPS Awaiting Item, June 19, 2018, 2:35 pm, INDIANAPOLIS, IN 46240

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Date Verified: 06/23/2018 (UTC)

BEFORE AN ADMINISTRATIVE LAW JUDGE
OF THE INDIANA PUBLIC RETIREMENT SYSTEM

IN THE MATTER OF
SANDRA O'GWIN,

) PUBLIC EMPLOYEES'
) RETIREMENT FUND

Petitioner

)
)
) Respondent

PROCEDURES FOR REVIEW

The administrative law judge is not the ultimate authority in this case, but was designated by INPRS to hear this proceeding pursuant to IC § 4-21-5-3-9(a). The order issued in this matter becomes a final order when affirmed under IC § 4-21.5-3-29, which provides, in pertinent part:

(b) After an administrative law judge issues an order under section 27 of this chapter, the ultimate authority or its designee shall issue a final order:

- (1) affirming;
- (2) modifying; or
- (3) dissolving;

the administrative law judge's order. The ultimate authority or its designee may remand the matter, with or without instructions, to an administrative law judge for further proceedings.

(c) In the absence of an objection or notice under subsection (d) or (e), the ultimate authority or its designee shall affirm the order.

(d) to preserve an objection to an order of an administrative law judge for judicial review, a party must not be in default under this chapter and must object to the order in a writing that:

- (1) identifies the basis of the objection with reasonable particularity; and
- (2) is filed with the ultimate authority responsible for reviewing the order within fifteen (15) days (or any longer period set by statute) after the order is served on the petitioner.

(e) Without an objection under subsection (d), the ultimate authority or its designee may serve written notice of its intent to review any issue related to the order. The notice shall be served on all parties and all other persons described in section 5(d) of this chapter. The notice must identify the issues that the ultimate authority or its designee intends to review.