



State of New Jersey

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

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June 17, 2021

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

ELIZABETH MAHER MUOIO
State Treasurer

JOHN D. MEGARIOTIS
Acting Director

Sent via email to: [REDACTED]

GAYLORD POPP, L.L.C.
Samuel M. Gaylord, Esq.

[REDACTED]

RE: Joel Mestre
PERS [REDACTED]

Dear Mr. Gaylord:

FINAL ADMINISTRATIVE DETERMINATION

I am writing in reference to the decision of the Board of Trustees ("Board") of the Public Employees' Retirement System (PERS) denying the request of your client, Joel Mestre, to amend his Ordinary Disability retirement to an Accidental Disability retirement pursuant to P.L. 2019, c. 157, The Bill Ricci World Trade Center Rescue, Recovery and Cleanup Operations Act (Chapter 157).¹ The Board originally denied the request at its meeting of March 17, 2021. You appealed the Board's decision via letter dated April 6, 2021.² At its meeting of May 19, 2021, the Board considered your appeal and denied an administrative hearing, essentially for the reasons set forth in the Board's denial letter dated March 25, 2021. Finding no genuine issue of material fact in dispute, the Board directed the Board Secretary to draft a Final Administrative Determination for review at its meeting of June 16, 2021. After careful consideration, the Board approved this Final Administrative Determination.

¹ As you were not in attendance, the Board offered Mr. Mestre the opportunity to adjourn the matter to a later date, which he declined.

² You advised that you did not receive the Board's original determination. The Board accepted your appeal as timely.

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FINDINGS OF FACT

The record before the Board establishes that Mr. Mestre was enrolled in the PERS on September 1, 1993, as a result of his employment with Hoboken City as a Clerk Typist. Mr. Mestre remained with Hoboken City until May 31, 2020. At the time of his separation from employment, Mr. Mestre held the title of Deputy Director of the Office of Emergency Management.

Documentation presented to the Board included witness statements indicating Mr. Mestre assisted in the World Trade Center cleanup in the days following September 11, 2001, in his capacity with Hoboken Office of Emergency Management. Additional documentation confirms Mr. Mestre was enrolled in the WTC Health Program as a Responder.

The Board noted the Division of Pensions and Benefits (Division) received Mr. Mestre's *Eligibility Registration Form* dated September 13, 2019, requesting Accidental Disability retirement benefits. However, by letter dated October 12, 2019, the Disability Review Section determined Mr. Mestre is not eligible to apply for said benefits under the aforementioned law. Subsequently, Mr. Mestre provided additional documentation of certificates of various completed study courses and workshops. However, by letter dated January 31, 2020, the Disability Review Section again denied the request.

On April 8, 2020, Mr. Mestre submitted an *Application for Disability Retirement* requesting Ordinary Disability retirement benefits effective June 1, 2020. At its meeting of August 19, 2020, the Board approved Mr. Mestre's Ordinary Disability retirement. By letter dated October 1, 2020, you noted your representation of Mr. Mestre and that you were appealing the Division's administrative determination denying Mr. Mestre's eligibility to receive Accidental Disability retirement benefits under Chapter 157.

At its meeting of March 17, 2021, the Board denied Mr. Mestre's appeal as outlined above. You filed an appeal and at its meeting of May 19, 2021, the Board denied your request for an administrative hearing.

CONCLUSIONS OF LAW

The Board made the following conclusions of law.

N.J.S.A. 43:15A-43(b)(5) allows for PERS members to receive amended retirement benefits under Chapter 157 if they meet one of several conditions. First, if the PERS member or retiree “is or was enrolled in the Public Employees’ Retirement System because the member or retiree did not meet the age or medical requirements for enrollment in the Police and Firemen’s Retirement System on the basis of the position held...” Next, Chapter 157 benefits are available to a PERS member or retiree if they are an “emergency medical technician who is a member or retiree of the Public Employees’ Retirement System. For the purposes of this paragraph, “emergency medical technician” means a person trained in basic life support services as defined in section 1 of P.L.1985, c.351 (C.26:2K-21) and who is certified by the Department of Health to perform these services.”

In your letter of April 6, 2021, you asserted that Mr. Mestre responded to Ground Zero in his role as Deputy Director of Emergency Management, and that he had taken several courses related to the role of a First Responder, and therefore could have provided emergency medical services. However, the Board noted that pursuant to the statute, Mr. Mestre was not a licensed EMT at that time and therefore not included within the list of eligible members the Legislature sought to include in Chapter 157.

Following its review of the documentation, the Board affirmed the Division’s determination that Mr. Mestre is not eligible to receive Accidental Disability retirement benefits under Chapter 157 because he does not meet the eligibility requirements under this law. Mr. Mestre was not barred from enrollment in the PFRS due to age or medical requirements and he was not an emergency medical technician as defined by the statute.

The Board thanks Mr. Mestre for his service and selfless dedication and efforts at Ground Zero.

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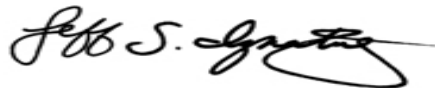
As noted above, the Board has considered your written submission and all documentation in the record. Because this matter does not entail any disputed questions of fact, the Board was able to reach its findings of fact and conclusions of law on the basis of the retirement system's enabling statutes and without the need for an administrative hearing. Accordingly, this correspondence shall constitute the Final Administrative Determination of the Board of Trustees of the Public Employees' Retirement System.

You also have the right to appeal this final administrative action to the Superior Court of New Jersey, Appellate Division, within 45 days of 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

Sincerely,



Jeff Ignatowitz, Secretary
Board of Trustees
Public Employees' Retirement System

G-8

c: D. Lewis (ET)

Joel Mestre (Sent via email to: [REDACTED])