



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PENSIONS AND BENEFITS
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PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

ELIZABETH MAHER MUOIO
State Treasurer

JOHN D. MEGARIOTIS
Acting Director

July 21, 2022

Sent via email to: [REDACTED]

Michele Ronga
[REDACTED]

RE: James Ronga (deceased)
PERS [REDACTED]

FINAL ADMINISTRATIVE DETERMINATION

Dear Ms. Ronga:

I am writing in reference to the denial by the Board of Trustees ("Board") of the Public Employees' Retirement System (PERS) of your request to receive a monthly retirement benefit after the death of your former spouse. The Board originally denied your request at its meeting on April 20, 2022.¹ Thereafter, on or about April 28, 2022, you filed a timely appeal of the Board's decision. At its meeting of June 15, 2022, the Board considered your appeal and, finding no material facts in dispute, denied your request for an administrative hearing and directed the undersigned to draft this Final Administrative Determination, which the Board reviewed and approved at its meeting of July 20, 2022.

FINDINGS OF FACT

The Board made the following factual findings.

The record before the Board establishes that by letter dated February 10, 1999, you provided a copy of the February 24, 1997, Dual Judgment for Divorce in the matter of James Ronga v. Michelle Ronga (Judgment) to Peter Gorman, then Executive Assistant with the Division of Pensions and Benefits (Division). In the February 10, 1999, letter, you mentioned two

¹ Due to health and safety concerns for the public regarding COVID-19, the meeting was conducted via teleconference.

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stipulations of the Judgment; one pertaining to your receiving a portion of Mr. Ronga's pension benefit via a Qualified Domestic Relations Order (QDRO) and the other being Mr. Ronga agreeing to elect a survivor benefit for you with the options available from the fund.

In response, by letter dated May 27, 1999, Mr. Gorman advised that in order for the Division to implement any type of alimony, support or equitable distribution withholdings against a retiree's monthly allowance, the Division must receive an appropriate, executed court order and noted that a QDRO was not included with your correspondence. Regarding the retirement option selection, Mr. Gorman wrote:

Please be advised that we do not have the authority to implement or guarantee the implementation of the provisions that Mr. Ronga will select a retirement option at the time of his retirement that designates you as a beneficiary under that retirement option. We will attempt to remind Mr. Ronga about any obligation that he may have under any court order within our files concerning such irrevocable designations, but if he is insistent upon making a 'contrary' designation or selection even after being informed about any court orders within our possession to the contrary, we must process those "contrary" selections or designations. The only recourse that you might have would be possible litigation in order to resolve such a situation.

The record further establishes that on June 26, 2009, James Ronga filed an *Application for Retirement Allowance* for a July 1, 2009, Service retirement under the Maximum Allowance, which provides no survivor benefit. At its meeting on October 21, 2009, the Board approved Mr. Ronga's retirement. N.J.A.C. 17:2-6.3(a), states, "a member shall have the right to withdraw, cancel, or change an application for retirement at any time before the member's retirement allowance becomes due and payable..." A retirement allowance becomes "due and payable" after "30 days have elapsed following the effective date or the date the Board met and approved the change in the member's retirement application, whichever is later. N.J.A.C. 17:2-6.3(b).

In April 2012, approximately three years after Mr. Ronga's retirement application was approved by the Board, the Division received a Domestic Relations Order (DRO), dated April 19,

2012, between yourself and Mr. Ronga. The DRO outlined the equitable distribution withholding formula the Division was to apply to determine the monthly amount you were to receive from Mr. Ronga's monthly retirement benefit during his lifetime. Item 13 of the DRO required Mr. Ronga to elect Option 4 so that upon his passing, you would receive the same monthly amount for the remainder of her lifetime.

Thereafter, the Division established an account under your name and you began to receive a monthly equitable distribution payment in the amount of [REDACTED]. However, as Mr. Ronga's retirement had become due and payable almost three years earlier, the Division could not implement the stipulation regarding the retirement option. Mr. Ronga passed away on December 11, 2020. Accordingly, your equitable distribution payment ended with the check dated December 1, 2020.²

After Mr. Ronga passed away, you inquired with the Division about the continued receipt of your pension. On June 1, 2021, the Division wrote to your previous attorney, Amy Harris, Esq., advising that Mr. Ronga had selected the Maximum option, for which there is no survivor benefit. The Division also advised, and you do not dispute, that the DRO was not received by the Division until three years had passed since Mr. Ronga's retirement was approved and he began receiving a monthly benefit. Pursuant to PERS regulations, a member has 30 days from the effective date of retirement or Board approval, whichever is later, to amend their retirement application. Because Mr. Ronga made no changes to his retirement application during the applicable period, no changes could be made to the beneficiary designation.

CONCLUSIONS OF LAW

The Board made the following conclusions law.

² The Board also notes that both parties received a benefit in excess of what they would have been entitled to had Mr. Ronga selected the Option 4 survivor benefit.

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A PERS member may elect to change his or her retirement option in accord with N.J.A.C. 17:2-6.3(a), which states that “a member shall have the right to withdraw, cancel, or change an application for retirement at any time before the member's retirement allowance becomes due and payable...” A retirement allowance becomes “due and payable” after 30 days have elapsed following the effective retirement date or Board approval, whichever is later. N.J.A.C. 17:2-6.3(b).

The Board noted that on February 10, 1999, you provided the Division with the Dual Judgement for Divorce (Judgment), which was executed on February 24, 1997. You were subsequently advised by Mr. Gorman that the Division did not have the authority to implement the Judgment, including the requirement that Mr. Ronga include you as a survivor beneficiary, without a court order requiring it to do so. Ultimately, Mr. Ronga retired effective July 1, 2009, and selected the Maximum Allowance, an option which would not provide for a beneficiary at the time of his passing. It is undisputed that you did not provide a court order requiring such a designation until April 19, 2012, three years after Mr. Ronga retired and well-beyond the time frame in which he would be able to amend his retirement option.

While the Board certainly empathizes with your situation, there is no mechanism for the Board to pay you a monthly survivor benefit. Mr. Ronga had been retired and his retirement application, along with his beneficiary option, had been approved for almost three years prior to the Division's receipt of the DRO. Accordingly, the Board denied your request to receive a monthly retirement option after the passing of her former spouse.

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.

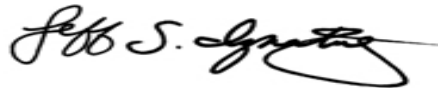
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You also have the right to appeal this final administrative action to the Superior Court of New Jersey, Appellate Division, within 45 days of the date of this letter in accordance with the Rules Governing the Courts of the State of New Jersey.

All appeals should be directed to:

Superior Court of New Jersey
Appellate Division
Attn: Court Clerk
PO Box 006
Trenton, NJ 08625

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff S. Ignatowitz". The signature is fluid and cursive, with a large, sweeping flourish at the end.

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

G-9/JSI

c: E. Pierson (ET); D. Bernardini (ET)