



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PENSIONS AND BENEFITS
(609) 292-7524 TDD (609) 292-7718
www.state.nj.us/treasury/pensions

DONALD T. DIFRANCESCO
Acting Governor

Mailing Address:
PO Box 295
Trenton, NJ 08625-0295
Location:
50 West State Street
Trenton, New Jersey

PETER R. LAWRANCE
Acting State Treasurer

THOMAS P. BRYAN
Director

May 17, 2001

John G. DeSimone, Esquire
PO Box 237
Woodbury, NJ 08096

Re: **G. Philip Lewis**
PERS # [REDACTED]

FINAL ADMINISTRATIVE DETERMINATION

Dear Mr. DeSimone:

I am writing in reference to the action of the Board of Trustees of the Public Employees' Retirement System ("PERS Board") in denying your request on behalf of G. Philip Lewis to purchase additional service credit in the PERS from September 19, 1986 until April 1, 1993 when Mr. Lewis was an employee, pursuant to the Job Training Partnership Act (JTPA) at the County of Salem. The PERS Board reviewed this request at its March 21, 2001, and April 18, 2001, meetings and denied your request. Findings of Fact and Conclusions of Law, as outlined below were presented and approved by the PERS Board at its May 16, 2001, meeting.

The PERS Board has reviewed your written submissions and the documentation accompanying your appeal. Based upon the facts presented in those documents and the statutes and regulations governing the PERS, the PERS Board, cannot grant your request to allow Mr. Lewis to purchase the JTPA service from September 19, 1986 to April 1, 1993.

The Board made the following findings of fact. Mr. Lewis was employed through the County of Salem under the CETA program as a Teachers Aide from December 1, 1974 through December 2, 1976. On December 13, 1976 Mr. Lewis became the Community Service Planner with CETA. On January 1, 1977 he became the Senior Community Service Planner. On July 1, 1977 Mr. Lewis became the Deputy Director for the Department of Community Development with CETA. On January 1, 1980 he became the Manpower Coordinator with CETA. This position continued until October 1, 1983 when Mr. Lewis became the JTPA Administrator. On July 1, 1988 Mr. Lewis became the Human Resource Coordinator continuing in the JTPA. Mr. Lewis' position became permanent with the County of Salem on April 7, 1993.

At its meeting of March 21, 2001, the Board considered your submissions and granted an extension of one month to permit you to provide any documentation or argument as to why N.J.S.A. 43:15A-7(h) was inapplicable to Mr. Lewis' purchase request.

John G. DeSimone, Esq.
Re: G. Philip Lewis
Page 2
May 17, 2001

At its meeting of April 18, 2001, the PERS Board reviewed your correspondence of April 3, 2001, and upon consideration voted to deny your request to allow Mr. Lewis to purchase a portion of his JTPA employment from September 19, 1986 through April 1, 1993. In support of its determination the Board cited N.J.S.A. 43:15A-7(h).

At the Board's meeting of April 18, 2001, you orally requested a hearing in the Office of Administrative Law. On April 30, 2001, you forwarded a letter to the PERS Board appealing the Board's April 18, 2001 decision. This Final Administrative Determination serves as formal notice that the Board has denied your request for a hearing.

The Board made the following conclusions of law:

The provisions of N.J.S.A. 43:15A-7(h):

A temporary employee who is employed under the Federal Job Training Partnership Act, Pub.L. 97-300 (29 U.S.C. s 1501) shall not be eligible for membership in the system. Membership for temporary employees employed under the federal Job Training Partnership Act, Pub.L. 97-300 (29 U.S.C. s 1501) who are in the system on September 19, 1986 shall be terminated, and affected employees shall receive a refund of their accumulated deductions as of the date of commencement of employment in a Federal Job Training Partnership Act program. Such refund of contributions shall serve as a waiver of all benefits payable to the employee, to his dependent or dependents, or to any of his beneficiaries under the retirement system.

N.J.S.A. 43:15A-7(h) provides that a temporary employee who was employed under the Federal Job Training Partnership Act is ineligible for membership in the PERS. The law also provided that temporary employees who were enrolled in the PERS on or before September 19, 1986, would have their membership terminated and all contributions refunded. The refund served as a waiver of any future benefits payable to the employee or beneficiary.

Because this law specifically prohibits PERS membership to JTPA employees after September 18, 1986, the Division is without discretion to permit your request. Mr. Lewis' request to purchase his employment with the County of Salem pursuant to the CETA program was granted. Additionally, the request to purchase the JTPA employment from October 1, 1983, through September 18, 1986 was approved.

As noted above, the PERS Board has reviewed your written submissions including your written request for a formal hearing, in the Office of Administrative Law in accordance with the provisions of N.J.A.C. 17:1-1.5. Because your matter does not entail any disputed questions of fact, the PERS Board was able to reach its findings of fact and conclusions of law in this matter 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

John G. DeSimone, Esq.
Re: G. Philip Lewis
Page 3
May 17, 2001

Administrative Determination of the Board of Trustees of the Public Employees' Retirement System.

You have the right, if you wish, 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.

Sincerely,



Wendy Jamison, Secretary
Board of Trustees
Public Employees' Retirement System

wj/G-3
c: David Dembe, SDAG

G. Philip Lewis
105 Stockington Road
Woodstown, NJ 08098