

105 Stockington Road
Woodstown, NJ 08098
July 27, 2007

Ms. Kathy Coates, Secretary, Board of Trustees
Public Employees' Retirement System
PO Box 295
Trenton, NJ 08625-0295

Re: [REDACTED]

Dear Ms. Coates;

I am in receipt of the letter dated June 20, 2007 from Mark Schwedes, CEBS, Assistant Chief, Enrollment and Purchase Bureau in which he advised that it has been determined that I am not eligible for any pension. This is based on the fact that I did not make a purchase of "temporary" service within the two years following my retirement on June 30, 2000. As you are aware, we were in the midst of an ongoing appeal process related to my purchase of service at that time.

On March 20, 2002, after receiving an expiration notice, I sent a letter to Ms. Wendy Jamison, then Secretary to the Board of Trustees, in which I requested that the expiration notice I had received be held in abeyance pending the outcome of the appeal. Ms. Jamison replied that she would see to it. As Mr. Schwedes noted, the appeal process was completed, but only with the NJ Supreme Court's denial in May 2004 of my petition for certification.

Subsequent to that time, since I did not receive any further communication from the Division of Pensions and Benefits regarding either the purchase amount for those years for which I was determined eligible (which would change, based on the Board's determination that the calculation date would relate back to when we first inquired, in October 1998) or any further notification of expiration of my membership and, since you are still holding my prior contributions in my account, I understood that to mean that the matter was continuing to be held until I reached my 60th birthday in February 2007, at which time I could apply for a service pension effective March 1, 2007. I wrote to you as I approached my 60th birthday regarding my purchase of service.

I find it interesting to note that Mr. Schwedes continued that "error" which I have pointed out since my first appearance before the Board of Trustees in March 2001. He states that Chapter 109, P.L. 1986 "required **all** JTPA-covered employees to terminate their PERS memberships" [emphasis added] yet the clear language of the statute refers to "temporary" JTPA employees. If indeed **all** JTPA-covered employees were required to terminate their membership then the Division of Pensions and Benefits has been allowing hundreds, if not thousands, of state and local employees to contribute to the PERS, and retire and collect pensions contrary to the law, since they were JTPA employees and are now WIA employees.

Mr. Schwedes is not alone in his use of “temporary” and “all” interchangeably. The Attorney General’s office has consistently used the terms as if they mean the same thing and the second Appeals Court did the same, sometimes referring to “all” and other times referring to “temporary.”

No one has yet explained to me (as ordered by the Appeals Court in its first, unpublished, decision of June 24, 2002) how a veteran with 25 ½ years of continuous, uninterrupted service can conceivably be deemed “temporary”, especially in light of the statute, P.L. 1966, c. 217 (C. 43:15A-57.2), and court decisions which specifically determine otherwise. Vliet v. Bd. Trustees Pub. Emp. Retire. Syst., 156 N.J. Super. 83 (1978) and Gladden v. Pub. Emp. Ret. Sys., 171 N.J. Super. 363, 371 (App. Div. 1979).

I do not wish to have my prior contributions returned to me; I wish to appeal this determination. Please advise what the next steps are.

If there is any other information which you require, please contact me.

Sincerely,

G. Philip Lewis