



MEETING NO: 15-11 D

BENEFIT REVIEW COMMITTEE

The Regular Meeting of the Benefit Review Committee of the Board of Trustees was held Thursday, November 19, 2015. Present at the meeting were Committee members Copper, Kuehne, Piechocinski, Stanish and Thompson, IMRF staff members, Davis, Diaz, Dixon, O'Brien, Rockett, and Janicki-Clark.

Absent: Miller

(15-11-01)(Visual roll call)

Mr. Piechocinski presided as chairperson and called the meeting to order at 11:00 a.m.

(15-11-02)(Approval of prior meeting minutes)

The Benefits Manger presented the minutes from the Committee meeting held on October 22, 2015.

After discussion, Mr. Kuehne moved to approve the minutes. Seconded by Ms. Thompson.

Motion passed by unanimous voice vote

(15-11-03)(CUSD#3 Fulton County AP Exemption)

IMRF Hearing Officer Susan Brunner appeared before the Committee and presented the following Findings and Conclusions:

ILLINOIS MUNICIPAL RETIREMENT FUND

IN THE MATTER OF THE COMMUNITY UNIT)	
SCHOOL DISTRICT #3, FULTON COUNTY,)	E.R. #2213 IMRF EMPLOYER
#01402,)	
FROM A DECISION OF THE ILINOIS MUNICIPAL)		Susan Davis Brunner
RETIREMENT FUND ADMINISTRATIVE STAFF)		Hearing Officer

JANICE BISHOP, Employee #158-3588 (hereinafter referred to as "Employee") was a seasonal employee of the **COMMUNITY UNIT SCHOOL DISTRICT #3, FULTON COUNTY** (hereinafter referred to as "CUBA SD 3) who terminated her active participation

in the **ILLINOIS MUNICIPAL RETIREMENT FUND** (hereinafter referred to as "IMRF") and employment with the school district on May 29, 2015. On June 25, 2015, the IMRF sent an Accelerated Payment Invoice to CUBA SD 3 in the amount of five thousand, nine hundred and seventy-one and 75/100 (\$5,971.75) dollars. On July 7, 2015, CUBA SD 3 requested a review of and exemption from the accelerated payment, which was denied by the IMRF Administrative Staff on August 13, 2015. On August 28, 2015, CUBA SD 3 requested a hearing to appeal the Administrative Staff Determination denying the accelerated payment exemption.

The appeal was heard before Hearing Officer Susan Davis Brunner (hereinafter referred to as "HO") by teleconference on November 13, 2015, at 10:00 a.m. CHRISTIE MASON (hereinafter referred to as "MASON") appeared on behalf of CUBA SD 3. BETH JANICKI CLARK, Associate General Counsel (hereinafter referred to as "JANICKI CLARK"), and LARICE DAVIS, Paralegal (hereinafter referred to as "DAVIS"), appeared on behalf of IMRF.

FINDINGS OF FACT BY THE HEARING OFFICER

After hearing oral testimony by MASON and JANICKI CLARK, and reviewing the written exhibits tendered by the parties, the HO makes the following findings of fact:

1. The Employee had been a seasonal food service employee for CUBA SD 3 for over 23 years at the time of her retirement, and as such, she worked approximately 9 months of the year to coincide with the school year, but received yearly employment credit for each 9 month season worked (see CUBA SD 3 Exhibits #1 through #5, Support Staff Statement of Terms 2014-1015, dated 9/18/14; 2013-2014, dated 9/25/13; 2012-2013, dated 9/7/12; 2011-2012, dated 9/9/11; and 2010-2011, dated 10/12/10).
2. The Employee was an active participant of IMRF up until the time of her retirement on May 29, 2015, and received yearly IMRF credit for each approximate 9 month school year she worked.
3. Pursuant to the 2010-2013 and the 2014-2017 collective bargaining agreements, "Agreement Between Community Unit School District #3, Fulton County and CUBA Federation of Support Staff Local #4973 IFT/AFT AFL-CIO" (hereinafter referred to as either the 2010-2013 or 2014-2017 Collective Bargaining Agreement), each employee was given "the option of receiving their check on a nine or twelve month basis." The 2014-2017 Collective Bargaining Agreement, which was in effect at the time of Employee's retirement and increased earnings, also stated "Notification of change in pay option different from the previous year must be by July 1" (see CUBA SD 3 Exhibit # 6, Agreement Between Community Unit School District #3, Fulton County and CUBA Federation of Support Staff Local #4973 IFT/AFT AFL-CIO 2010-2013; also see CUBA SD 3 Exhibit #7, Agreement Between Community Unit School District #3, Fulton County and CUBA Federation of Support Staff Local #4973 IFT/AFT AFL-CIO 2014-2017).
4. Pursuant to the 2014-2017 Collective Bargaining Agreement, on 5/5/14, the Employee submitted a Pay Memo to CUBA SD 3 requesting her salary for the upcoming year to be changed so she would be paid in 19 payments over 9 months, instead of 24 payments over 12 months. On 5/17/13, 5/18/12 and 5/11/11, the Employee had submitted yearly Pay Memos requesting her salary for each of those years to be paid in 24 payments over 12 months (see CUBA SD 3 Exhibit

#8, 2014-2015 Pay Memo; see CUBA SD 3 Exhibit #9, FY 2013 Pay Memo; see CUBA SD 3 Exhibit #10, FY 2012 Pay Memo; also see CUBA SD 3 Exhibit #11, FY 2011 Pay

Memo).

5. At the beginning of each school year, the Employee also signed yearly CUBA SD 3 Support Staff Statement of Terms which listed her anticipated Annual Salary, Board Paid Benefits and Payroll Deductions for each upcoming school year (see CUBA SD 3 Exhibits #1 through #5).
6. On May 29, 2015, CUBA SD 3 submitted IMRF Form e6.41, Termination of IMRF Participation, on behalf of Employee, who retired on May 29, 2015 (see CUBA SD 3 Exhibit #12, Termination of IMRF Participation).
7. On June 25, 2015, the IMRF sent an Accelerated Payment Invoice to CUBA SD in the amount of five thousand, nine hundred and seventy-one and 75/100 (\$5,971.75) dollars (see IMRF Exhibit #1, AP Invoice, Accelerated Payment for Janice A. Bishop, dated June 25, 2015). The AP Invoice stated that the Employee's earned wages during the 12 month period immediately preceding her 5/29/15 retirement (6/2014-5/2015) was \$29,209.94. The invoice further stated that the Employee's wages from the previous 12 month period (6/2013 to 5/2014) was \$23,810.05; an increase of \$5399.89. Based on actuarial assumptions and

tables, the IMRF determined that the present value of the increase in the pension due to this increase in earned wages was \$5971.75 (see IMRF Exhibit #1, AP Invoice).

8. CUBA SD #3 did not dispute at any time the dollar amount determined by IMRF to be the present value of the increase in Employee's pension due to the increased earnings nor did it dispute the dollar amount of the accelerated payment; it requested an exemption.
9. On July 7, 2015, CUBA SD 3, by MASON, submitted IMRF Form 7.20, and checked Box "B" on the form, requesting an exemption from the accelerated payment because the Employee's "earning increases were attributable to personnel policies adopted prior to 1/1/2012..." (see IMRF Exhibit #2, Request for Review/Delay of an Accelerated Payment Invoice, signed on July 1, 2015 by Christine Mason). Although two collective bargaining agreements were submitted as evidence, there were no personnel policies submitted by CUBA SD 3.
10. In a letter dated August 13, 2015, the request for exemption was denied by the IMRF Administrative Staff. The letter stated that the school district's "personnel policy(ies) were not revised prior to 1/1/2012 to provide that employees beginning IMRF participation after 1/1/2012 will either not receive similar payments or will receive similar payments in such a way that they will not be included in earnings used to calculate pension." (see IMRF Exhibit #3, letter from IMRF Audrey Brown-Ryce to CUBA SD Christine Mason, dated August 13, 2015).
11. On August 28, 2015, the CUBA SD 3 requested a hearing to appeal the Administrative Staff Determination to the IMRF Board of Trustees (see IMRF Exhibit #4, Letter from CUBA S 3 by MASON to JANICKI CLARK, IMRF).

RECOMMENDED ADMINISTRATIVE DECISION

Based on the Findings of Fact, the Illinois Pension Code and IMRF Rules and Procedures, the Board of Trustees of the IMRF has jurisdiction over this appeal.

The Illinois Pension Code provides, in part, as follows:

(k) If the amount of a participating employee's reported earnings for any of the 12-month periods used to determine the final rate of earnings exceeds the employee's 12 month reported earnings with the same employer for the previous year by the greater of 6% or 1.5 times the annual increase in the Consumer Price Index-U, as established by the United States Department of Labor for the preceding September, the participating municipality or

participating instrumentality that paid those earnings shall pay to the Fund, in addition to any other contributions required under this Article, the present value of the increase in the pension resulting from the portion of the increase in salary that is in excess of the greater of 6% or 1.5 times the annual increase in the Consumer Price Index-U, as determined by the Fund. This present value shall be computed on the basis of the actuarial assumptions and tables used in the most recent actuarial valuation of the Fund that is available at the time of the computation...
40 ILCS §7-172(k).

In addition, the language provided above in the Pension Code is repeated and clarified in detail in IMRF Rule 720.E, Accelerated Payments as well as IMRF Rule 3-1-5, Employer Reporting and Contributions. Both rules state clearly that the excess earnings are based upon a comparison of earnings received during the 12 month period just prior to the IMRF termination date with earnings received during any 12 month period within the final rate of earnings period. In this case, a comparison of 6/2014-5/2015 earnings with 6/2013-5/2014 earnings triggered the necessity for an accelerated payment.

Although CUBA SD 3 checked Box "B" of IMRF Form 7.20, it did not submit any written personnel policies, but instead submitted written collective bargaining agreements. MASON based her argument for exemption at the appeal hearing on these Collective Bargaining Agreements, which offered seasonal workers the option to be paid over 9 months or 12 months. MASON acknowledged at the hearing that the Employee's increased earnings were paid pursuant to the 2014-2017 Collective Bargaining Agreement. In addition, she acknowledged that seasonal workers hired before and after 1/1/2012 were treated similarly in that all seasonal workers were given the option of 9 month or 12 month payment periods. Instead, MASON argued that CUBA SD 3 should be exempt from any accelerated payment because the school calendar year and the fiscal year begins September 1st and ends August 31st, as reiterated in the Collective Bargaining Agreements, 2014-2017 and 2010-2013. CUBA SD 3 maintained that even though the Employee terminated IMRF participation on May 29, 2015, the 12 month period upon which her earnings should be tabulated should track the school year and the Collective Bargaining Agreement year which began on 9/1/2014, and ended on 8/31/2015. CUBA SD 3 argued that the option for seasonal workers to be paid over a 9 month or 12 month period was akin to a courtesy and that the Employee's yearly salary increase was actually minimal and well below the salary increase necessary for an accelerated payment. MASON stated that she did not know the final rate of earnings period would be based on the 12 months just prior to the 5/29/2015 termination date, as she thought it was from 9/1/2014-8/31/2015.

I recommend that the IMRF staff decision denying the Accelerated Payment Exemption be AFFIRMED as the Illinois Pension Code, as well as the written IMRF rules, are very clear that it is the 12 month period immediately preceding the Employee's 5/29/15 termination from her employment and her IMRF participation that must be compared to other 12 month periods within the final rate of earnings period. This is true even though the

Employee was employed at a school that began its school year on 9/1/14 and ended on 8/31/15, but retired on 5/29/15. Moreover, even though the Employee had an extended summer vacation each year because she was a seasonal worker, the Employee received a full year of work credit and IMRF credit for each 9 month school year of actual work. Neither the 2014-2017 Collective Bargaining Agreement nor any personnel policies provide a basis for any allowable exemption to the accelerated payment. The Pension Code and IMRF rules do not provide an exemption for seasonal workers who work in schools. The 2014-2017 Collective Bargaining Agreement did not change from the previous agreement. The IMRF applies the same rules when determining the present increase in pension value for employees hired before and after 1/1/2012.

/s/ Susan Davis Brunner

SUSAN DAVIS BRUNNER, Hearing Officer

EXHIBIT LIST: IMRF EXHIBITS:

1. AP Invoice, Accelerated Payment for Janice A. Bishop, from IMRF to MASON for CUBA SD 3, dated June 25, 2015;
2. Request for Review/Delay of an Accelerated Payment Invoice, signed on July 1, 2015 by MASON, and received by IMRF on July 7, 2015;
3. Letter from IMRF by Audrey Brown-Ryce to MASON for CUBA SD 3, dated August 13, 2015.
4. Letter from CUBA SD 3 by MASON to JANICKI CLARK for IMRF, dated August 28, 2015;
5. IMRF Memorandum, by Beth Janicki Clark, dated October 30, 2015;

CUBA SD 3 EXHIBITS:

1. Support Staff Statement of Terms 2014-1015, dated 9/18/14;
2. Support Staff Statement of Terms 2013-2014, dated 9/25/13;
3. Support Staff Statement of Terms 2012-2013, dated 9/7/12;
4. Support Staff Statement of Terms, 2012-2013, dated 9/9/11;
5. Support Staff Statement of Terms 2010-2011, dated 10/12/10;
6. Agreement Between Community Unit School District #3, Fulton County and CUBA Federation of Support Staff Local #4973 IFT/AFT AFL-CIO 2010-2013;
7. Agreement Between Community Unit School District #3, Fulton County and CUBA Federation of Support Staff Local #4973 IFT/AFT AFL-CIO 2014-2017
8. 2014-2015 Pay Memo for Janice Bishop;
9. FY 2013 Pay Memo for Janice Bishop;
10. FY 2012 Pay Memo for Janice Bishop;

11. FY 2011 Pay Memo for Janice Bishop;
12. Termination of IMRF Participation Form for Janice Bishop, dated May 29, 2015.

After further discussion, the Committee recommends that the Board adopt the Findings and Conclusions presented by the IMRF Hearing Officer.

Motion: K u e h n e
Second: Thompson
Ayes: Copper, Kuehne, Piechocinski, Stanish and Thompson
Nays:
Motion Passed: 5-0

Kathy O'Brien left the meeting

Dr. Miller joined the meeting
Dr. Rao joined the meeting

Trustee Miller joined the meeting

(15-11-04)(Temporary Disability Denial – Edward J. Henschel – Village of Midlothian # 3923)

Edward J. Henschel appeared before the Committee via teleconference on October 22, 2015. The Committee heard comments from Mr. Henschel, the Medical Consultants and staff. Finally, the Committee reviewed the written materials that were submitted to the Committee by staff.

After further discussion, the Committee deferred making a decision pending additional information regarding Mr. Henschel's medical condition and information regarding his CDL license.

Motion: Copper
Second: Thompson
Ayes: Copper, Kuehne, Piechocinski, Miller, Stanish and Thompson
Nays:
Motion Passed: 6-0

Dr. Miller left the meeting

(15-11-05)(Total and Permanent Disability Denial – John D. Reynolds – Tri Valley Community Unit School District #3)

John Reynolds and his witness, Barbara Reynolds appeared before the Committee via teleconference. The Committee heard comments from Mr. and Mrs. Reynolds regarding his conditions. The Committee heard comments from the Medical Consultant and staff. Finally, the Committee reviewed the written materials that were

submitted to the Committee by staff.

After further discussion the committee recommends that the Board overturn staff's determination to deny total and permanent disability benefits.

Motion: Copper
Second: Thompson
Ayes: Copper, Stanish and Thompson
Nays: Kuehne and Miller
Abstain: Piechocinski
Motion Passed: 3-2

(15-11-06)(Benefits Manager presented the Annual Prepayment Report)

(15-11-07)(Public Comments)

There were no public comments made

(15-11-08)(Adjournment)

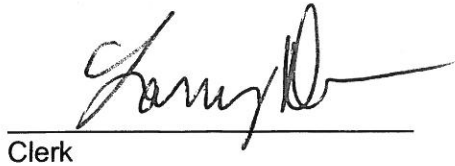
Ms. Copper made a motion to adjourn at 2:07 p.m. Seconded by Mr. Kuehne.

Motion passed by unanimous voice vote

The next regular scheduled meeting of the Committee will be at 11:00 a.m. on Thursday December 17, 2015.


Chairperson

12-17-15
Date


Clerk

12-17-15
Date

2015-11 Board Minutes