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**COMMONWEALTH OF PENNSYLVANIA  
PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD**

IN RE: ACCOUNT OF JUDY TODOROWSKI  
DOCKET NO. 2016-07  
CLAIM OF JUDY TODOROWSKI


**OPINION AND ORDER OF THE BOARD**

The Board has carefully and independently reviewed the entire record of this proceeding, including the proposed Memorandum Opinion and Recommendation of the Hearing Examiner. We note that neither party filed Exceptions to the proposed Memorandum Opinion and Recommendation. The Board finds appropriate the proposed Memorandum Opinion and Order and, accordingly, we hereby adopt it as our own.

IT IS HEREBY ORDERED that the Board grants the Public School Employees' Retirement System's Motion to Dismiss, and the appeal of Claimant, Judy Todorowski, is DISMISSED WITH PREJUDICE.

PUBLIC SCHOOL EMPLOYEES'  
RETIREMENT BOARD

Dated: May 25, 2017

By:   
Nathan G. Mains, Vice Chairman

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EXECUTIVE OFFICE

**COMMONWEALTH OF PENNSYLVANIA  
PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD**

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**IN RE:** }  
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**MEMORANDUM OPINION AND RECOMMENDATION**

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**Christopher K. McNally  
Hearing Examiner**

**Commonwealth of Pennsylvania  
Governor's Office of General Counsel  
Department of State  
Office of Hearing Examiners  
P.O. Box 2649  
Harrisburg, PA 17105-2649  
(717) 772-2686**

## MEMORANDUM OPINION

This case comes before the Office of Hearing Examiners on behalf of the Public School Employees' Retirement Board (Board) upon a Claim of Judy Todorowski (Claimant) to the Public School Employees' Retirement System (PSERS) and her appeal from the determination of the Executive Staff Review Committee (ESRC) denying her request to purchase non-qualifying part-time school service.

On April 25, 2016, Claimant filed an Appeal and Request for Administrative Hearing (Appeal). On May 13, 2016, PSERS, by and through its counsel, Kathrin V. Smith, Esq., filed an Answer and contested Claimant's Appeal. On December 8, 2016, PSERS, by and through its Executive Director, Glen R. Grell, delegated this matter to Hearing Examiner Christopher K. McNally, Esq., to conduct a hearing and issue an opinion and recommendation. Also on December 8, the Board's Appeal Docket Clerk issued a Notice of Hearing and mailed copies by First Class Mail, Postage Prepaid and by Certified Mail, Return Receipt Requested,<sup>1</sup> to Claimant.

The Hearing Examiner convened the hearing as scheduled on February 8, 2017 at 1:00 p.m. Claimant did not appear. Kathrin V. Smith, Esq., appeared on behalf of PSERS. Counsel for PSERS offered the Appeal Docket Clerk who testified that on the morning of February 8, 2017, she received a call from an individual who identified herself as Judy Todorowski. According to the testimony of the witness, the caller informed the Appeal Docket Clerk that Claimant did not intend to appear at the hearing and that she would withdraw her appeal. The Appeal Docket Clerk also testified that she informed the caller that, although she was not required to withdraw her appeal, that if she intended to do so she should submit a written notice of withdrawal of her appeal to the Board. The caller acknowledged the instructions and the call terminated.

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<sup>1</sup> Article Number 7015 3010 0002 3788 2188.

The Appeal Docket Clerk also authenticated *PSERS Exhibit 1*, the Notice of Hearing dated December 8, 2016. *PSERS Exhibit 1* includes the records of the United States Postal Service Form 3811 that show that Article Number 7015 3010 0002 3788 2188 was delivered to Claimant on December 10, 2016, at her address of record, [REDACTED], and bears a signature that closely resembles Claimant's signature on her Appeal. The Appeal Docket Clerk also testified that the hearing notice posted First Class was not returned to the Board's offices.

The Appeal Docket Clerk also authenticated *PSERS Exhibit 2*. *PSERS Exhibit 2* is a copy of a hearing notice issued by the Board to Claimant on January 18, 2017, as a reminder of the hearing date, time and location. The Appeal Docket Clerk testified that she mailed the second notice by First Class Mail, Postage Prepaid, and received no record that it was returned.

After the testimony of the Appeal Docket Clerk, Counsel for PSERS moved to dismiss Claimant's Appeal with prejudice pursuant to 22 Pa.Code § 201.8, which provides:

**§ 201.8. Dismissal for nonappearance.**

(a) Whenever a claimant fails to appear, either in person or through counsel, for a scheduled hearing without good cause, the hearing examiner will issue a recommendation to dismiss the case, without considering the merits of the claim.

(b) This section supplements 1 Pa. Code §§ 35.125, 35.187 and 35.205 (relating to order of procedure; authority delegated to presiding officers; and contents of proposed reports).

22 Pa. Code §201.8.

Because Claimant is the proponent of her Appeal and Request for Administrative Hearing and failed without good cause shown to appear for her scheduled hearing, the Hearing Examiner recommends that the Board grant PSERS' motion to dismiss Claimant's appeal under the authority of 22 Pa. Code § 201.8. Accordingly, based upon the foregoing memorandum and discussion, the following recommendation shall issue:

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RECOMMENDATION

AND NOW, this 24<sup>th</sup> day of February, 2017, the Hearing Examiner for the Public School Employees' Retirement System recommends that the appeal filed by Judy Todorowski should be **DISMISSED**, with prejudice, under the authority of 22 Pa. Code § 201.8, due to Claimant's failure, without good cause, to appear for her scheduled hearing.

**BY ORDER:**

  
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Christopher K. McNally  
Hearing Examiner

Claimant: Judy Todorowski  


PSERS Attorney: Kathrin V. Smith, Esq.

Appeal Docket Clerk: Laura Vitale

Date of Mailing: February 24, 2017