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

IN RE: ACCOUNT OF ROCHELLE L. BURNS  
DOCKET NO. 2012-12  
CLAIM OF ROCHELLE L. BURNS

**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 Order of the Hearing Examiner. We note that neither party filed Exceptions to the proposed Memorandum Opinion and Order. The Board finds appropriate the Background, Discussion, and Order in the proposed Memorandum Opinion and Order. Accordingly, we hereby adopt the Hearing Examiner's Memorandum Opinion and Order 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, Rochelle L. Burns, is DISMISSED WITH PREJUDICE.

PUBLIC SCHOOL EMPLOYEES'  
RETIREMENT BOARD

Dated: 3/14/2014

By: Melva S. Vogler  
Melva S. Vogler, Chairman

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

**IN RE:**

**ACCOUNT OF ROCHELLE L. BURNS  
CLAIM OF ROCHELLE L. BURNS**

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**DOCKET NO. 2012-12**

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**MEMORANDUM OPINION AND ORDER**

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**Date of Hearing:     October 2, 2013**

**Suzanne Rauer  
Hearing Examiner**

**Background:**

This matter is before the Public School Employees' Retirement Board (Board) on an appeal filed by Rochelle L. Burns (Claimant) on July 20, 2012, regarding the issue of her eligibility for disability retirement benefits.

A hearing on Claimant's appeal was scheduled and continued at Claimant's request on three occasions, and on two occasions those continuances were actually granted during the hearings, which were scheduled for April 10, 2013 and June 5, 2013. A hearing on Claimant's appeal was rescheduled for October 2, 2013, commencing at 1:00 p.m., at the Public School Employees' Retirement System (PSERS), 5 North Fifth Street, Harrisburg, PA 17101, before Hearing Examiner Suzanne Rauer, Esquire.

A hearing notice setting forth the date, time and location of the hearing was served upon Claimant by Order dated June 10, 2013. That Order specifically stated as follows: "No further continuances will be granted to Claimant in this matter, absent exigent circumstances." On October 1, 2013, Claimant requested a continuance of the October 2, 2013 hearing via email to the appeal docket clerk for the Board, Megan Buller, stating that Claimant's attorney had advised her "approximately two weeks ago" that he could not represent her and that she required time to find new counsel. (N.T. 7) No attorney had entered an appearance on behalf of Claimant at any time during the pendency of her appeal. Counsel for PSERS filed an objection to Claimant's request for another continuance, and by Order dated October 1, 2013 the hearing examiner issued an Order denying Claimant's fourth request for a continuance. The hearing examiner personally emailed a copy of that Order to Claimant on October 1, 2013. In addition, Appeal Docket Clerk Megan Buller contacted Claimant by telephone and left messages at her home phone number and her work phone number, advising her that her request for a continuance was denied. (N.T. 11)

On October 2, 2013, the hearing was held as scheduled at PSERS. Claimant failed to appear for the hearing. Kathrin V. Smith, Assistant Deputy Chief Counsel, was present on behalf of PSERS.

**Discussion:**

At the commencement of the hearing, counsel for PSERS moved to dismiss Claimant's appeal under the authority of section 201.8 of the rules and regulations of SERS due to Claimant's failure to appear for the scheduled hearing. Section 201.8 of the regulations of the Retirement System provides as follows:

**§ 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.

Claimant's October 1, 2013 email requesting a continuance of the October 2, 2013 hearing, which is part of the record in this matter, clearly establishes that Claimant received timely notice of the date, time and place of the hearing that was scheduled at her request to allow Claimant to proffer evidence in support of her claim. Claimant was advised that her request for continuance of the October 2, 2013 hearing was denied in a timely manner, in that the hearing examiner on October 1, 2013 emailed a copy of the Order Denying Claimant's Fourth Request for Continuance to Claimant at the email address provided by Claimant. Appeal Docket Clerk Megan Buller also contacted

Claimant by telephone and left messages at her home phone number and her work phone number, advising her that her request for a continuance was denied. (N.T. 11)

Parties in attendance at the hearing on October 2, 2013 waited until 1:15 p.m. to commence the hearing in the event that Claimant was running late. No communications were received by Claimant on the date of the hearing by counsel for SERS or staff who would typically receive those types of communications to indicate that Claimant was unable to attend the hearing due to exigent circumstances. (N.T. 12)

In that Claimant failed to appear for the hearing without good cause shown, it is recommended that Claimant's claim be dismissed, with prejudice.

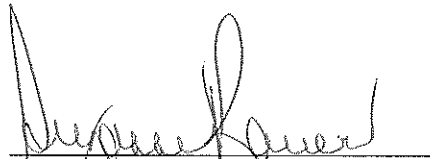
The following Order is therefore recommended:

COMMONWEALTH OF PENNSYLVANIA  
PUBLIC SCHOOL EMPLOYEES' RETIREMENT SYSTEM

IN RE: :  
: :  
ACCOUNT OF ROCHELLE L. BURNS : DOCKET NO. 2012-12  
CLAIM OF ROCHELLE L. BURNS :

ORDER

AND NOW, this 6<sup>th</sup> day of January, 2014, the appeal filed by Claimant, Rochelle L. Burns, is **DISMISSED**, with prejudice, under the authority of 22 Pa. Code §201.8, due to Claimant's failure, without good cause, to appear for a scheduled hearing.

  
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Suzanne Rauer  
Hearing Examiner

Dated: January 6, 2013