



# State of New Jersey

DEPARTMENT OF THE TREASURY  
DIVISION OF PENSIONS AND BENEFITS  
P. O. Box 295

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May 18, 2023

PHILIP D. MURPHY  
*Governor*

SHEILA Y. OLIVER  
*Lt. Governor*

ELIZABETH MAHER MUOIO  
*State Treasurer*

JOHN D. MEGARIOTIS  
*Acting Director*

Sent via email to: [REDACTED]

Law Offices of Feeley & LaRocca  
John D. Feeley, Esquire

[REDACTED]

RE: Robin Daghlia  
PERS [REDACTED]

## **FINAL ADMINISTRATIVE DETERMINATION**

Dear Mr. Feeley:

At its meeting on April 19, 2023, the Board of Trustees (Board) of the Public Employees' Retirement System (PERS) considered the appeal of your client, Robin Daghlia, concerning her eligibility for Deferred retirement benefits in light of her dismissal for cause on charges of misconduct or delinquency directly related to her employment in accord with N.J.S.A. 43:15A-38. The Board had originally denied Ms. Daghlia's application for Deferred retirement benefits at its meeting of January 18, 2023. You filed a timely appeal of the Board's decision on Ms. Daghlia's behalf on February 15, 2023.

After careful consideration, the Board affirmed its prior decision, and finding no genuine issue of material fact in dispute, denied her request for an administrative hearing. Thereafter, the Board directed the undersigned to draft a Final Administrative Determination, which was reviewed and approved at its meeting of May 17, 2022.

## **FINDINGS OF FACT**

The Board made the following factual findings.

The record before the Board establishes that Ms. Daghlia was enrolled in the PERS on January 1, 1999, as a result of her employment as an Emergency Medical Technician (EMT) with

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Cliffside Park Borough (Borough). She remained with this employer and in this title at the time of her termination on November 12, 2013. Ms. Daghljan filed a retirement application on April 12, 2021, requesting a July 1, 2021, retirement.

A Preliminary Notice of Disciplinary Action (PNDA) was filed on October 17, 2012, charging Ms. Daghljan with Conduct Unbecoming a Public Employee, Unfitness for Service as an EMT, Insubordination, and Failing to meet and/or satisfy the conditions pursuant to which her employment by the Borough had been continued on a probationary period. On repeated occasions from July 29, 2012 through October 9, 2012, Ms. Daghljan's employer received complaints that she was verbally abusive and confrontational toward patients and supervisors, engaged in patterns of harassment toward co-workers, and exhibited other behaviors, towards patients and their family members, co-workers, and other public safety personnel. This behavior occurred while she was subject to a period of probation from a previous disciplinary action for similar conduct. In addition, Ms. Daghljan failed to comply with administrative and supervisory directives when she covertly recorded a meeting held between her and Borough personnel, and failed to deliver a copy or a certified transcript of the recording to the Borough personnel upon his request. As a result of the charges, the Borough sought her removal.

On or about October 1, 2013, the Hearing Officer issued a report and found that Ms. Daghljan demonstrated a pattern of behavior that was contrary to that of a public employee and that she was not fit for duty as an EMT. The Hearing Officer also found that the charges in the PNDA were sustained and recommended that the Borough terminate Ms. Daghljan from her employment as an EMT. A Borough Resolution was adopted on November 12, 2013, terminating her employment effective immediately.

Ms. Daghljan filed a federal lawsuit against the Borough alleging retaliation and sexual harassment in violation of the New Jersey Law Against Discrimination. In an opinion dated July 27, 2016, the court dismissed all claims except Count XIII (Violation of the New Jersey Civil Rights

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Act for Failure to Implement Appropriate Policies) and Count XIV (Violation of the New Jersey Law Against Discrimination). All other counts were dismissed without prejudice.

On May 9, 2017, the Borough and Ms. Daghlian entered into a Settlement Agreement (Agreement) and General Release. A Voluntary Stipulation of Dismissal was approved upon execution of the Agreement regarding Ms. Daghlian's lawsuit filed against the Borough. In addition, Ms. Daghlian received \$68,578.54 from the Borough, however no admission of wrongdoing was admitted to by either party. The Agreement settled Ms. Daghlian's lawsuit against her employer regarding allegations of retaliation and sexual harassment, but had no effect with respect to her removal from employment.

The Board considered Ms. Daghlian's application for Deferred retirement benefits at its meeting of January 18, 2023. At the meeting, the Board found that she was removed for cause on charges of misconduct or delinquency and denied her application. On or about February 15, 2023, you filed a timely appeal of the Board's decision and requested that the matter be transferred to the Office of Administrative Law as a contested case.

At its meeting on April 19, 2023, the Board considered Ms. Daghlian's appeal, affirmed its prior decision, and finding no genuine issue of material fact in dispute, denied her request for an administrative hearing.

### **CONCLUSIONS OF LAW**

The Board made the following conclusions of law.

Tier 1 and 2 PERS members with 10 or more years of service are eligible to file for Deferred retirement benefits upon reaching 60 years of age. The eligibility for Deferred retirement benefits are outlined in N.J.S.A. 43:15A-38, which states, in pertinent part:

Should a member of the Public Employees' Retirement System, after having completed 10 years of service, be separated voluntarily or involuntarily from the service, before reaching service retirement age, and not by removal for cause on charges of misconduct or delinquency, such person may elect to receive:

- (a) The payments provided for in section 41b of this act,<sup>1</sup> if he so qualifies under said section, or;
- (b) A deferred retirement allowance, beginning at the retirement age...

[(Emphasis added)].

Based on the plain language of the statute as applied to the facts in the record, the Board determined that Ms. Daghlian was removed for cause on grounds of misconduct or delinquency directly related to her employment, and she is not eligible for Deferred retirement benefits. See In re Hess, 422 N.J. Super. 27 (App. Div. 2011) (holding that ineligibility for Deferred retirement occurs when a member is terminated for misconduct or delinquency related to the employment).

At the time of Ms. Daghlian's dismissal from employment, she was 51 years of age and her membership account reflected a total of 13 years and 5 months of PERS service credit. Therefore, at that time the only benefit she could file for was a Deferred retirement. Consequently, the Board found that because Ms. Daghlian was removed for cause on charges of misconduct or delinquency directly related to her employment, she is not eligible for a Deferred retirement, and the Board denied her retirement application under the provisions of N.J.S.A. 43:15A-38. See also In re Hess, 422 N.J. Super. 27 (App. Div. 2011).

Ms. Daghlian is eligible to withdraw her accumulated pension contributions remitted during active membership, and she may request an *Application for Withdrawal* by writing to Robin Willever, Supervisor, Loan/Withdrawal Section at the Division, at the address above. **Nonetheless, Ms. Daghlian is cautioned against filing the withdrawal application if she intends to appeal the Board's determination. Withdrawal terminates all rights and privileges of membership.**

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<sup>1</sup> N.J.S.A. 43:15A-41

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As noted above, the Board has considered your personal statements, written submission and all documentation in the record. Because this matter does not entail any disputed questions of fact, the Board was able to reach its findings of fact and conclusions of law 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 Administrative Determination of the Board of Trustees of the Public Employees' Retirement System.

You have the right 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.

All appeals should be directed to:

Superior Court of New Jersey  
Appellate Division  
Attn: Court Clerk  
PO Box 006  
Trenton, NJ 08625

Sincerely,



Jeff S. Ignatowitz, Secretary  
Board of Trustees  
Public Employees' Retirement System

G-8/JSI  
C: J. Ehrmann (ET); R. Willever (ET)

C: Sabrina Figueroa [REDACTED]