BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of	)	
	)	
J M.C	)	OAH No. 25-2058-TRS
	)	

DECISION

I. Introduction

J.C, Ph.D., appeals the decision of the Department of Administration, Division of Retirement and Benefits ("DRB") to not count towards her retirement pension 221 days of unused sick leave. Dr. C claims, accurately, that processing her retirement was an arduous process that required her to elevate difficulties to the DRB director and involve state legislators. However, providing DRB the number of unused sick days after the last day of employment is solely the responsibility of the retiree. After the difficulties with processing her retirement ended, Dr. C was told twice she needed to provide DRB with her unused sick leave balance, and she did not timely do so. Because these notices cured any prior representations or omissions that her retirement paperwork was complete, DRB's decision to exclude the unused sick leave from her pension calculation is AFFIRMED.

II. Background

Dr. C was a professor at the University A. Based on the date she started service with the State of Alaska, Dr. C is in the "Tier II" defined benefit retirement plan.[1] She now receives a monthly pension based on several factors, including her time in service with the state. Retired educators like Dr. C can have their time in service extended by the number of days of unused sick leave they have when they retire.[2] Dr. C had 221 days of unused sick leave when she retired.[3]

Dr. C started communicating about her retirement with the University A human resources department by at least spring of 2023. On April 13, 2023, Dr. C wrote UNIVERSITY A HR with several questions about her retirement, including asking about the process for claiming her unused sick leave.[4] On April 17, 2023, UNIVERSITY A HR responded, telling Dr. C, "It is your sole personal responsibility to claim your unused sick leave by completing [the appropriate form] and confirming your employer has completed [the employer portion of the form] within one year and

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1 *See* AS 14.25.009 (teachers' defined benefit program applies to members first hired before July 1, 2006). It is undisputed Dr. C was first hired before 2006 and is retired under the Tier II defined benefit plan.

2 AS 14.25.115(a) *and* Exhibit 1 at 53 ("Tiers I and II Defined Benefit Plan Retirement Application Instruction Booklet.)

3 Exhibit 9 at 1.

4 Exhibit 2 at 1.

Retirement and Benefits has received [the form]."[5] On May 9, 2023, Dr. C completed her "TRS Application for Retirement Benefits."[6] On the application she checked the box stating "I wish to claim unused sick leave in order to increase my TRS monthly benefit, and have completed the necessary claim form enclosed at the back of this application."[7] Dr. C did not check the next box stating "I understand I have one year to claim my unused sick leave and the completed form must be returned to the Division of Retirement and Benefits no later than one year after the date of my retirement."[8] She later checked that box and submitted the corrected form on June 5, 2023.[9] On June 2, 2023, Dr. C was contacted by UNIVERSITY A HR telling her that the application, including the portion on unused sick leave, was incomplete.[10]

On May 9, 2023, Dr. C used UNIVERSITY A's automated benefits help system to transmit the retirement leave form. This prompted the creation of an electronic "help ticket" that was assigned to UNIVERSITY A benefits specialist S.K.[11] Mr. K told Dr. C that she could not submit her unused sick leave form until after her employment ended because she would continue to accrue sick leave until then.[12]

Dr. C's last day of work with the State of Alaska was June 30, 2023. On July 21, 2023, Dr. C emailed DRB asking whether retroactive pay raises would be applied to her last three years' service, on which her retirement benefit is largely based.[13] Dr. C also testified that at around the same time she contacted UNIVERSITY A HR and asked if there was anything else she needed to do, and was told words to the effect that her retirement paperwork was complete.

On July 27, 2023. Dr. C again wrote DRB asking, "[i]s someone able to tell me where my retirement is in the process? I know I won't receive a check until late august [sic] but I expected to receive notification of the monthly amount by now."[14]

Hearing nothing, on August 11, 2023, Dr. C again wrote DRB, noting she had not heard back from her prior two emails.[15] Later that day, a DRB benefits counselor wrote Dr. C back

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5 Exhibit 2 at 4
6 Exhibit 5. TRS stands for "Teachers Retirement System."
7 Exhibit 5 at 3.
8 *Id.*
9 Exhibit 6.
10 Exhibit 2 at 7.
11 Exhibit 4.
12 *Id.* at 3.
13 Exhibit 2 at 14.
14 *Id.* at 15.
15 *Id.* at 16.

asking for her last day of work.[16] Dr. C responded by email, and she also spoke with the DRB retirement counselor the same day.[17] Dr. C testified she was told in that conversation that there were communication difficulties between DRB and UNIVERSITY A, and there difficulties were because some of Dr. C's service was in the executive branch of government in the PERS retirement system, but most of her time was as a professor in the TERS system. Dr. C testified she remained concerned but was hopeful that the situation would be resolved.

Unfortunately, Dr. C heard nothing and she emailed the same DRB retirement counselor on August 22, 2023 asking for the status.[18] On September 11, 2023, DRB emailed Dr. C back, stating that the matter had been elevated to the retirement counselor's supervisor.[19]

Still hearing nothing, and having been retired for almost three months without word of what her pension would be and having not received a pension payment, Dr. C on September 29, 2023 wrote to two state representatives, a state senator, and the director of DRB stating:

> I am reaching out to leadership because I am not sure where else to turn. … Since filing [for retirement], I have experienced a fundamental lack of response from R&B. I was first told my retirement was delayed because they were waiting on something from UNIVERSITY A. No one reached out to share this info with me – I had to call and inquire, and continue to email until I was told this was the delay. I then called UNIVERSITY A and resolved the issue myself. For the next 6 weeks my emails were not responded to by anyone, which continued until late August when I finally received a response that my "case had been escalated", however I have not yet heard back from that individual or from anyone at a higher level at R&B. I myself called the R&B main line last week and spoke to someone who looked up my file and told me everything was in order and I would receive my 3 months of back retirement pay in the form of a check mailed on September 22nd. When this check didn't arrive this week, I called again yesterday, only to be told there is a problem with my PERS/TERS timing and things were still delayed, at least until the end of October. I was told again that the problem was "with my employer" but what the problem is they couldn't explain. I was also told someone would call me, but I remain skeptical of any follow up based on past experience.
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> I planned well for my retirement, but I never imagined the State of Alaska would hold my income for 4 months or more. It has become a hardship and no approach I have tried has gotten resolution. … Can someone please help me as this system seems broken.[20]

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[16] *Id.* at 17.
[17] *Id.* at 19.
[18] *Id.* at 20.
[19] *Id.* at 27.
[20] Exhibit B at 1-2.

The DRB director wrote Dr. C back an hour later, apologizing and saying he would look into the matter with his staff.[21] Representative B.T also wrote back later that day, apologizing for the "terrible delay" and saying she would investigate.[22] Fortunately, on October 11, 2023, DRB wrote Dr. C, informing her of the amount of her pension and stating a retroactive payment would be made. The letter also advised Dr. C about sick leave:

> Your *Claim and Verification of Unused Sick Leave Credit* has not been received. If you wish to receive credit for your unused sick leave, your claim must be verified and received by us within one year from your retirement effective date. If you unused sick leave is less than 9 days, not [sic] additional credit is granted. For more information, please read the insert *Minimum Requirements for Retirement and Service Credit*.[23]

At the evidentiary hearing, Dr. C candidly testified that she was immensely relieved when she received the October 11, 2023 letter and simply did not notice the language at the top of page 2 about her unused sick leave. Rather, she was "fixated" on the financial implications of the letter. Dr. C also testified that the overall structure of the letter, placing the unused sick leave portion in the middle of a letter largely discussing other topics, did not alert her to the need to provide DRB with her final unused sick leave amount.

The next communication on her unused sick leave was a letter sent to Dr. C in March 15, 2024. The letter, which listed the same address as the October 11, 2023 letter, was limited to solely discussing unused sick leave, and reminded Dr. C, "**<u>It is your responsibility to ensure [the unused sick leave] form is received by the Division</u>**" before July 1, 2024.[24] Dr. C testified that she did not receive this letter. DRB stated the March 15, 2024 letter was both automatically generated and mailed.

Dr. C did not provide DRB with the amount of her unused sick leave within one year of her retirement and did not address the matter again until 2025. She provided DRB with the appropriate form indicating her 221 days of unused sick leave on March 31, 2025.[25] DRB denied her request to claim unused sick leave as untimely. This appeal followed.

III. <u>Discussion</u>

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21 *Id.* at 2.

22 Exhibit A at 1.

23 Exhibit 7 (emphasis in original).

24 Exhibit 8 (emphasis in original).

25 Exhibit 9. This unused sick leave would have been added to Dr. C's time in service. This would have the effect of increasing the amount of her pension check for the rest of her life and, should he survive her, for the rest of her husband's life as well.

Dr. C argues that DRB and the University represented to her that her retirement papers were complete or omitted to tell her she needed to submit the unused sick leave claim form. Dr. C continues that, because of those representations and omissions, DRB should be required to add Dr. C's 221 days of unused sick leave to her time in service. Dr. C further argues it was excusable neglect for her not to notice the reminder language in the October 11, 2023 letter and that she did not receive the March 15, 2024 letter.

Dr. C's argument implicates the doctrine of equitable estoppel, discussed in *Crum v. Stalnaker.*[26] In that case, a retiring teacher had a meeting with a school district employee who presented him with numerous forms that he completed in her presence. He filled out all the forms at that meeting and, to his understanding, that was the end of the process with the school district. Later DRB sent the teacher a packet of papers for him to complete in order to process his retirement with DRB. The teacher packet mentioned unused sick leave and said, "[y]our unused sick leave claim must be verified by your last employer and must be received by [DRB] no later than one year after you are appointed to retirement."[27] DRB did not include the form and the teacher did not ask for a form, believing that completing the forms with the school district finished all forms he needed to complete. The teacher argued that the state, having not given him the form, and him having filled out a large number of forms, was estopped from taking the position his sick leave claim form was untimely.

The court applied a four-part test on whether equitable estoppel should apply against the state: (1) the government asserts a position by conduct or words; (2) the private party acts in reasonable reliance on those words; (3) the private party suffers resulting prejudice; and (4) the estoppel serves the interest of justice so as to limit public injury.[28] The court concluded that the government's failure to give him the unused sick leave form was an assertion that the teacher's retirement packet was complete, that the teacher reasonably relied on that position, his loss of unused sick leave was prejudicial, and the cost of providing the unused sick leave credit served the interest of justice without undue public injury.[29]

Crum differs from this case in significant ways that make equitable estoppel inapplicable here. Dr. C argues that UNIVERSITY A and DRB's non-responsiveness to her emails between July 21, 2023 and September 11, 2023, and those emails never mentioning to her about needing

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[26] 936 P.2d 1254 (Alaska 1997).
[27] *Id.* at 1255.
[28] *Id.* at 1257.
[29] *Id.* at 1258.

unused sick leave claim forms, was an omission equivalent to the retiree in *Crum* not being given the unused sick leave form. Dr. C also testified that between July and September of 2023 she was told words to the effect that her retirement paperwork was complete. However, it is undisputed that, on October 11, 2023, she was advised in writing that it was her responsibility to get her unused sick leave claim form from the University HR department and submit it to DRB.[30] Based on the one-year deadline after retirement to submit the unused sick leave claim form, the October 11, 2023 letter gave Dr. C 263 days to obtain the form. She was again reminded on March 15, 2024.[31] The March 15, 2024 letter gave Dr. C 107 days to submit the unused sick leave form. In *Crum*, the retiree was never given a separate notice informing him he still needed to submit an unused sick leave claim form. Dr. C received two of these reminders. Any lack of mention of the sick leave claim form in correspondence with UNIVERSITY A HR and DRB was cured by these reminders.[32]

Dr. C's excusable neglect argument likewise fails. "Excusable neglect" is a phrase used in Civil Rule 60 about relief from judgments or orders.[33] Civil Rule 60 and the concept of relief from a court judgment is inapposite to this case, but the discussion of what constitutes "excusable neglect" is germane. A party arguing excusable neglect under Civil Rule 60 must show a "valid 'excuse'" for her neglect.[34] Dr. C explained in her testimony that she neglected to notice the language about unused sick leave in the October 11, 2023 letter because of her relief that she knew the amount of her retirement and that she would be receiving back pay. While her relief is understandable, it does not excuse her from reviewing the rest of the letter carefully. The letter was only two pages long and the language about her unused sick leave was presented plainly, including the above-quoted italicized portions. Second, as discussed above, the tribunal concludes the March 15, 2024 letter was sent by DRB to inform Dr. C of her obligation to submit the unused sick leave claim form. Even though it was not seen by Dr. C, DRB still communicated with her in a reasonable way with which it had communicated with her previously. Even if the March 15,

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30 Exhibit 7.

31 Exhibit 8.

32 Dr. C testified that she never received the March 15, 2024 letter. DRB points out the letter is automatically generated and was part of Dr. C's file. Because the letter is automatically generated and sent in the ordinary course of business, it is more likely than not that the letter was sent to Dr. C, but for whatever reason she did not see or remember it. The tribunal believes Dr. C's testimony that she did not see the letter. However, the letter may have been inadvertently thrown away with junk mail, lost in the mail, misdelivered, or seen but forgotten. But even if the March 15, 2024 letter was never sent, this tribunal would still conclude that the October 11, 2023 letter was sufficient to correct any omissions by either DRB or the University HR department.

33 *See*, *e.g.*, *Dickerson v. Williams*, 956 P.2d 458 (Alaska 1998).

34 *Id.* at 465.

2024 letter was not sent, Dr. C's failure to respond to the October 11, 2023 letter is not excusable and that letter remedied any prior omissions or assertions that her retirement paperwork was complete.

IV. Conclusion

The decision of the Division of Retirement and Benefits to reject Dr. C's unused sick leave claim form as untimely is AFFIRMED for the reasons set forth above.

DATED: December 29, 2025.

By: *Signed*
Robert H. Schmidt
Administrative Law Judge

ADOPTION

This Decision is issued under the authority of AS 39.35.006. The undersigned, in accordance with AS 44.64.060, adopts this Decision as the final administrative determination in this matter.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska Rule of Appellate Procedure 602(a)(2) within 30 days of the date of this decision.

DATED this 27th day of January, 2026.

By: *Signed*
Robert H. Schmidt
Administrative Law Judge

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