

DEC 26 2018

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Please print in ink or type

BEFORE THE STATE CLAIMS COMMISSION
Of the State of Arkansas

RECEIVED

- Mr.
- Mrs.
- Ms.
- Miss

Doris Boniecki Moore, Claimant

Do Not Write in These Spaces		
Claim No.	_____	
Date Filed	(Month) _____	(Day) _____ (Year) _____
Amount of Claim \$	_____	
Fund	_____	

vs.

State of Arkansas, Respondent

Doris Moore,
named Doris Boniecki
at time of State employment,

COMPLAINT

the above named Claimant, of _____ (Name) _____ (Street or R.F.D. & No.) _____ (City) _____ (State) _____ (Zip Code) _____ (Daytime Phone No.) represented by N/A (Legal Counsel, if any, for Claim)

of _____ (Street and No.) _____ (City) _____ (State) _____ (Zip Code) _____ (Phone No.) _____ (Fax No.) says:

State agency involved: APERS Amount sought: \$45,530

Month, day, year and place of incident or service: 1/4/2014 eligibility date for State Disability Retirement

Explanation: This is a claim for retroactive disability retirement benefits. APERS has advised that it cannot backpay retirement pension to the date that a disability began, per an Arkansas statute. However, I've learned that the Arkansas Claims Commission can sometimes offer recourse and compensation when an Arkansas law is considered unfair or other special circumstances. Here is my situation: When I left state employment on 1/3/2014, I was disabled. However, I had no idea that an option existed for Disability Retirement. I only knew of "normal" retirement at age 65 or "early" retirement at age 55 (with other criteria met). After leaving State employment, I applied for social security disability, which FAIRLY determined social security eligibility as of 1/3/2014 and backpaid disability payments after the approval process. I've lived very meagerly in order to survive on only Social Security. If I had known that I could have applied for State Disability Pension upon termination of my employment, then during all of this time I would not have had to financially struggle. However, APERS had never provided any paperwork or brochures to me, nor a letter upon my employment termination to advise regarding a Disability Retirement option. Thus, it wasn't until September of this year 2018 that I unexpectedly learned about the option. I immediately applied with APERS and was approved within days. I then quickly called APERS supervisor Matt Taylor to inquire about how to apply for backpay. He said there would be none. I said that I had never known, until September 2018, about the existence of APERS Disability Retirement, and I would expect APERS to at least send a letter upon employee termination to advise regarding retirement options. Mr. Taylor advised that APERS does not do that. I next called Deputy Director Jay Wills, who confirmed that letters are not sent. He also advised that it's the responsibility of agencies' Human Resources, not APERS, to distribute brochures and publications. Mr. Wills informed me that, in order to save money for APERS, brochures are not updated every time there is a change in retirement options or other information. It is my position that APERS should pay backpay to the Disability Retirement Eligibility, due to my particular circumstances and due to some unfair laws and policies.

As parts of this complaint, the claimant makes the statements, and answers the following questions, as indicated: (1) Has claim been presented to any state department or officer thereof? Yes; when? Sept. 25, 2018; to whom? Jay Wills with APERS (Arkansas Public Employees Retirement); and that the following action was taken thereon: None

and that \$ 0 was paid thereon: (2) Has any third person or corporation an interest in this claim? No; if so, state name and address _____ (Name) _____ (Street or R.F.D. & No.) _____ (City) _____ (State) _____ (Zip Code) and that the nature thereof is as follows: _____; and was acquired on _____, in the following manner: _____

THE UNDERSIGNED states on oath that he or she is familiar with the matters and things set forth in the above complaint, and that he or she verily believes that they are true. Doris Moore (while state employee) Doris Boniecki Moore
(Print Claimant/Representative Name) (Signature of Claimant/Representative)

SWORN TO and subscribed before me at Little Rock AR

TRACEY EATMON
PULASKI COUNTY
NOTARY PUBLIC - ARKANSAS
My Commission Expires December 16, 2022
Commission No. 12391520

on this 21st day of December, 2018
(Date) (Month) (Year)
Tracey Eatmon
(Notary Public)

SF1-R7/99

My Commission Expires: December 16, 2022
(Month) (Day) (Year)

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

DORIS BONIECKI MOORE

CLAIMANT

V.

CLAIM NO. 190689

**ARKANSAS PUBLIC EMPLOYEES
RETIREMENT SYSTEM**

RESPONDENT

ORDER

Now before the Arkansas State Claims Commission (the “Claims Commission”) is the motion filed by Arkansas Public Employees Retirement System (the “Respondent” or “APERS”) to dismiss the claim of Doris Boniecki Moore (the “Claimant”). Based upon a review of the motion, the Claimant’s response, the argument of the parties, and the law of Arkansas, the Claims Commission hereby finds as follows:

1. Claimant filed her claim on December 26, 2018, seeking retroactive payment of disability retirement benefits in the amount of \$45,530.00.

2. Respondent filed a motion to dismiss, arguing that (1) Claimant is not eligible for retroactive disability benefits pursuant to Ark. Code Ann. § 24-4-511(a)(2); and (2) the Claims Commission does not have jurisdiction over this claim.

3. Claimant responded to the motion to dismiss, arguing that Ark. Code Ann. § 24-4-511(a)(2) is “an unfair statute.” Claimant argued that she did not learn about disability retirement until September 2018 due to Respondent’s failure to “conduct[] Due Diligence.” Claimant stated that she understood “that the Arkansas Claims Commission can provide recourse when an Arkansas statute is unfair or doesn’t address unique circumstances.”

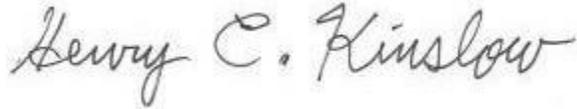
4. The Claims Commission agrees with Respondent that it does not have jurisdiction over this claim pursuant to Ark. Code Ann. § 19-10-204(b)(1)(A)(i)(d), which states that the

Claims Commission “shall have no jurisdiction of, or authority with respect to, claims arising under . . . The Arkansas Public Employees’ Retirement System Act, Acts 1957, No. 177.” (emphasis added). As stated correctly by Respondent, the statute addressing Claimant’s entitlement to disability benefits is Ark. Code Ann. § 24-4-511(a)(2), which is within the APERS Act. As further evidence that this claim is outside the jurisdiction of the Claims Commission, the legislative history of Ark. Code Ann. § 24-4-511 specifies that it began as “Acts of 1957, Act 177,” which mirrors the limiting language in the Ark. Code Ann. § 19-10-204(b)(1)(A)(i)(d).

5. Because the Claims Commission finds that it does not have jurisdiction to consider this claim, it cannot reach the merits of Claimant’s claim.

6. Respondent’s motion to dismiss is GRANTED for lack of jurisdiction pursuant to Ark. Code Ann. § 19-10-204(b)(1)(A)(i)(d).

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION

Courtney Baird
Dexter Booth
Henry Kinslow, Co-Chair
Paul Morris, Co-Chair
Sylvester Smith

DATE: April 11, 2019

Notice(s) which may apply to your claim

- (1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(b). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(b)(3). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a).
- (2) If a Claimant is awarded less than \$15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(b). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.
- (3) Awards or negotiated settlement agreements of \$15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).

**Arkansas
State Claims Commission**

MAY 13 2019

RECEIVED

[via hand delivery]

May 13, 2019

Arkansas State Claims Commission
101 E. Capitol Ave. #410
Little Rock, AR 72201

NOTICE OF APPEAL for case # 190689

Pursuant to the Order dated 4/11/2019 denying the above claim, I'm submitting this letter per procedure as a Notice of Appeal.

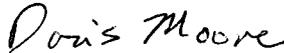
Thank you for your guidance with the procedure for the foregoing.

Sincerely,



Doris Moore

Certification of Delivery: I, Doris Moore, do hereby affirm that a duplicate of the foregoing letter Notice has been hand delivered on 5/13/19 to APERS, Attn: General Counsel, 124 W. Capitol Ave #400, Little Rock, AR 72201..



Doris Moore

