

STATE OF INDIANA  
INDIANA STATE TEACHERS RETIREMENT FUND  
BOARD OF TRUSTEES

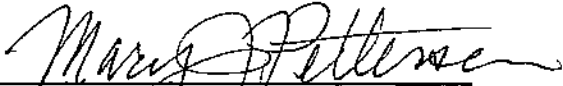
In the Matter of )  
Mary Ann Holstein )

TRF No.

ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that the ORDER of T.A. Shula, Administrative Law Judge in the above matter, issued as of December 9, 1992, be affirmed.

By:



Dr. Mary Petterson, Executive Director  
as directed and authorized by the Board of the  
Indiana State Teacher's Retirement Fund

DATE:

2/12/93

STATE OF INDIANA

Before an Administrative Law Judge  
in Administrative Hearing for the  
Board of the  
Indiana State Teacher's Retirement Fund

In the matter of ) Cause No. 91-162  
Mary Ann Holstein )  
 )  
Petitioner )

Administrative Law Judge's  
Findings of Fact, Conclusions of Law and Order

Comes now T. A. Shula, the Administrative Law Judge designated by the Board of Trustees of the Indiana State Teacher's Retirement Fund ("Board") in this proceeding, and hearing having been held at 10:30 a.m., Thursday, November 5, 1992, in the Board Room of the I.S.T.R.F., 150 West Market Street, Suite 300, Indianapolis, Indiana, 46204, now issues and files this Order. Notice is hereby given that any objection to the Administrative Law Judge's Order must be filed with the Board, identifying the basis of the objection with reasonable particularity, no later than eighteen days from the date of issuance of this Order unless such date is a Saturday, Sunday, or legal holiday under state statute or a day that I.S.T.R.F.'s offices are closed during regular business hours, in which case the deadline would be the first day thereafter that is not a Saturday, Sunday, or legal holiday under state statute or a day that the I.S.T.R.F.'s offices are closed during regular business hours. This Administrative Law Judge's Order is not the final Order of the Board in this proceeding. However, in the absence of any objection, the Board will either affirm the Administrative Law Judge's Order as its final Order, or will serve notice of its intent to review any issue related to the Administrative Law Judge's Order.

Findings of Fact

1. Petitioner, James Holstein, filed his Petition regarding the benefits accrued by his deceased wife, Mary Ann Holstein, on or about August 18, 1992.
2. Mary Ann Holstein registered for the I.S.T.R.F., on or about May 1, 1962 (See State's Ex. 1).
3. During her period of employment and participation in the fund, she became entitled to \$ [REDACTED] as of June 30, 1991 (See Petitioner's Ex. 1).

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4. Mary Ann Holstein died on September 18, 1987 (See State's Ex. 5).
5. The Indiana State Teachers' Retirement Fund first received notice of Mary Ann Holstein's death on April 9, 1991, from James Holstein.
6. By his testimony, Petitioner, James Holstein, indicated he was unaware of any requirement to make a claim for deceased benefits within three (3) years of death.
7. By his testimony, Petitioner, James Holstein, indicated he did not feel it was fair or equitable to deny benefits that had been earned by his late wife. He testified that this was especially true, since he was never notified by the I.S.T.R.F., of the three (3) year deadline.
8. Petitioner, James Holstein, conceded he knew of no regulation or law requiring I.S.T.R.F., to notify members or beneficiaries of the fund, of the three (3) year deadline.
9. In the testimony of Dr. Mary J. Pettersen, Director of the I.S.T.R.F., she stated that she knew of no regulation or law that required the I.S.T.R.F., to notify members or that beneficiaries be notified of the three (3) year deadline.
10. Dr. Pettersen testified that I.C. 5-10.2-3-8 provides that benefits that are not claimed within three (3) years of the member's death are forfeited.

Conclusions of Law

1. I.C. 5-10.2-3-8 mandates that a beneficiary claim benefits within three (3) years of the death of a member of the I.S.T.R.F.
2. There is no statutory or regulatory requirement that the I.S.T.R.F. notify members or beneficiaries of the three (3) year deadline in I.C. 5-10.2-3-8.

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3. That lack of knowledge of the law (in this case, the 3-year statute of limitations), does not provide a reason for not following the law.
4. The I.S.T.R.F. did not receive notice of the claim of the Petitioner, James Holstein, until after the three (3) year deadline had passed.
5. Petitioner has failed to meet his burden of proof.
6. Petitioner, by operation of law, is not entitled to the benefits of Mary Ann Holstein.

ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that the Petitioner's request that he be awarded the benefits of Mary Ann Holstein is denied, and that said benefits are ordered forfeited and credited to the member's retirement fund, as provided by statute (I.C. 5-10.2-3-8).

ISSUED this 9<sup>th</sup> day of Dec., 1992.



T. A. Shula, Administrative Law Judge  
Indiana State Teachers' Retirement Fund

Copies By Certified Mail To:

James Holstein  


Mary J. Pettersen, Ph.D  
Indiana State Teacher's Retirement Fund  
150 West Market St., Suite 300  
Indianapolis, IN 46204

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