

TEACHERS' RETIREMENT BOARD
OF THE STATE OF CALIFORNIA

In the Matter of the CalSTRS' Denial to)
Base One-Year Final Compensation on Earnings)
for the Period of February 1, 2003 through)
January 31, 2004, of:)

Case No. APL20110809-0000294
OAH No. 2012050552

PRECEDENTIAL DECISION
14-01

MICHAEL JANVIER,)
Respondent.)

Effective: June 5, 2014

PRECEDENTIAL DECISION

On June 24, 2013, the California State Teachers' Retirement Board adopted as its Decision the Proposed Decision dated May 22, 2013 in *In the Matter of the CalSTRS' Denial to Base One-Year Final Compensation on Earnings for the Period of February 1, 2003 through January 31, 2004 of MICHAEL JANVIER.*

I hereby certify that on June 5, 2014, the California State Teachers' Retirement Board, acting pursuant to The Teachers' Retirement Board Policy Manual section 800D, designated the entirety of this Decision as a Precedential Decision of the Board.

I hereby further certify that the attached copy of the Decision is a true copy thereof as adopted by the California State Teachers' Retirement Board.

CALIFORNIA STATE TEACHERS'
RETIREMENT SYSTEM

Dated: 6/10/14

By: 

JOHN R. WEECH,
ASSISTANT GENERAL COUNSEL

BEFORE THE
TEACHERS' RETIREMENT BOARD
OF THE STATE OF CALIFORNIA

FILED

JUL - 5 2012

Office of Administrative Hearings
By _____

IN THE MATTER OF THE CALSTRS'
DENIAL TO BASE ONE-YEAR FINAL
COMPENSATION ON EARNINGS FOR THE
PERIOD OF FEBRUARY 1, 2003 THROUGH
JANUARY 31, 2004, OF:

MICHAEL R. JANVIER,

RESPONDENT.

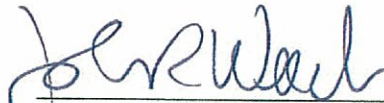
Case No.: APL20110809-0000294

OAH No.: 2012050552

DECISION AND ORDER

The attached proposed decision of the administrative law judge was adopted on June 24, 2013, by the Appeals Committee of the California State Teachers' Retirement System Board as its decision in the above-titled matter.

Dated: 7.1.13



John R. Weech
Assistant General Counsel
Office of the General Counsel
California State Teachers' Retirement System

CALSTRS
LEGAL OFFICE

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BEFORE THE
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OF THE STATE OF CALIFORNIA

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CALSTRS
LEGAL OFFICE

In the Matter of the CalSTRS' Denial to Base
One-Year Final Compensation on Earnings
for the Period of February 1, 2003 through
January 31, 2004, of:

Case No. APL20110809-0000294

OAH No. 2012050552

MICHAEL JANVIER,

Respondent.

PROPOSED DECISION FOLLOWING REMAND

Administrative Law Judge Melissa G. Crowell, State of California, Office of Administrative Hearings, heard this matter on September 11, 2012, in Oakland, California.

John R. Weech, Assistant General Counsel, represented complainant Peggy A. Plett, Deputy Chief Executive Officer of the California State Teachers' Retirement System.

Stan D. Blyth, Attorney at Law, Lee, Lawless & Blyth, represented respondent Michael Janvier, who was present.

The record was closed and the matter was submitted for decision on September 11, 2012. A proposed decision was submitted to the Teachers Retirement Board on October 10, 2012.

By order dated December 18, 2012, the board rejected the proposed decision and remanded the matter for further proceedings before the administrative law judge. A hearing on remand took place on April 25, 2013, and additional evidence was received. The matter was submitted for decision on April 25, 2013.

SUMMARY

The California State Teachers' Retirement System calculated respondent's final compensation based on his highest average annual compensation earnable during the 2009-2010 school year. Respondent is requesting that the agency calculate his final compensation based on the 12-month period of February 1, 2003, through January 31, 2004.

FACTUAL FINDINGS

1. The essential facts of this case are not in dispute. Respondent Michael Janvier became a member of the California State Teachers' Retirement System (CalSTRS) on September 7, 1973. Respondent retired from service on June 15, 2012, earning 38.87 years of service credit under CalSTRS.
2. Upon his retirement, respondent was entitled to receive a monthly retirement allowance that factored in his final compensation, his years of service, and a multiplier associated with his age at retirement as set forth in Education Code section 24201 et seq.
3. The dispute in this case centers on the calculation of respondent's final compensation. Under Education Code section 22134.5, a member who retires with 25 or more years of service credit has his or her final compensation based on the "highest average annual compensation earnable by a member during any period of 12 consecutive months."
4. Respondent filed a Service Retirement Application with CalSTRS on March 25, 2010. On his application, respondent wrote under the section for Final Compensation: "Please look at salary rate for Feb. 2003 through Feb. 2004. Please use 12 consecutive months."
5. On May 11, 2010, CalSTRS sent respondent an award letter stating that based on information it had received from respondent's employer, it had determined his final compensation to be \$10,343.08 per month. CalSTRS based this determination on respondent's compensation earnable for the 2009-2010 school year, his last year of employment. CalSTRS made minor adjustments to the amount of final compensation amount on July 17 (\$10,345.35) and again on August 21, 2010 (\$10,347.28.).
6. In a letter dated September 2, 2010, respondent requested CalSTRS to review the calculation method and to calculate his final compensation based on his earnings for the 12-month period of February 1, 2003 through January 31, 2004.
7. By letter dated October 18, 2010, Pension Program Analyst Sherice Wu denied respondent's request to determine his final compensation based on the 12-month period of February 1, 2003 through January 31, 2004. Respondent was notified of his right to an Executive Review of that decision, which he subsequently requested by letter dated November 10, 2010.
8. On May 17, 2011, respondent was notified that CalSTRS had conducted an Executive Review of his request, and that his request was denied. Respondent was advised of his right to an administrative hearing on the denial. Respondent filed a timely request for an appeal, which was received by CalSTRS on August 8, 2011. Complainant filed the Statement of Issues on March 8, 2012.

9. An administrative hearing was held, and the matter was submitted for decision, on September 11, 2012. A proposed decision was issued to the Teachers' Retirement Board on October 10, 2012. The proposed decision granted respondent's appeal and directed CalSTRS to recalculate his retirement allowance "based on his earnings for the period of February 1, 2003 through January 31, 2004."

10. The proposed decision was rejected by the Appeals Committee of the board on December 7, 2012. A Decision and Order issued on December 18, 2012, which referred this case back to the administrative law judge with instructions:

to take additional evidence regarding 1) the legislative intent and administrative application of one year final compensation, specifically Education Code section 22134.5 and 2) the use of the term "earnings" in the order versus "compensable earnable" as defined in Education Code section 22115.

11. A hearing on the remand took place on April 25, 2013. Additional documentary evidence was presented regarding reported contributions of respondent during fiscal years 2002-2003, 2003-2004, and 2009-2010. CalSTRS also presented the testimony of Deputy Chief Executive Officer Ed Derman and Assistant Pension Program Analyst Pamela Simmons.

12. CalSTRS does not consider "earnings" in calculating member benefits. CalSTRS considers the member's "highest average compensable earnable," as set forth in Education Code section 22115 and 22134.5.

13. Respondent's highest average compensable earnable took place during the 2009-2010 school year (\$124,164.34). Respondent's compensation earnable for the period of February 2003 to January 2004 was \$121,156.49, which is less than it was during his last year of employment. Because respondent's highest average compensable earnable occurred in 2009-2010, CalSTRS utilized that year to calculate respondent's retirement benefit.

14. Respondent's highest rates of pay occurred from February 2003 to January 2004. He did not sustain the higher pay rate over either school year, however, and earned less than 0.9 service credit each school year at the higher pay rate.

15. Where a member earns multiple pay rates and the highest pay rate is for less than 0.9 of the school year, the statutory formula for calculating annual compensable earnable requires CalSTRS to take the lower pay rate(s) into consideration. (Ed. Code, § 22115, subs. (c) & (d).) Because the lower pay rate(s) are taken into consideration, they reduce the average compensation earnable for the school year.

LEGAL CONCLUSIONS

1. The issue to be determined is whether CalSTRS has correctly calculated respondent's retirement benefit.

2. For members with less than 25 years of "credited service" their final compensation is calculated pursuant to Education Code section 22134. Section 22134 provides in part,

"Final compensation" means *the highest average annual compensation earnable* by a member during *any period of three consecutive school years* while an active member of the Defined Benefit Program or time during which he or she was not a member but for which the member has received credit under the Defined Benefit Program

(Emphasis added.)

3. For members with more than 25 years of "credited service," their final compensation is calculated by a different formula set forth in Education Code section 22134.5. Section 22134.5 provides in part:

Notwithstanding Section 22134, 'final compensation' means *the highest average annual compensation earnable* by a member during *any period of 12 consecutive months* while an active member of the Defined Benefit Program or time during which he or she was not a member but for which the member has received credit under the Defined Benefit Program

(Emphasis added.)

4. Compensation earnable is defined in Education Code section 22115, subdivision (a):

"Compensable earnable" means the creditable compensation a person could earn in a school year for creditable service performed on a full-time basis, excluding service for which contributions are credited by the system to the Defined Benefit Supplement Program.

If an employee has multiple pay rates during a school and earns service credit of less than 0.900 of a year at the highest pay rate, this affects the calculation of the member's compensation earnable for purposes of determining his final compensation. Subdivision (d), of Education Code section 22115, provides that compensation earnable shall be determined pursuant to the provisions of subdivision (c), which provides:

If service credit for a school year is less than 1.000, compensable earnable shall be the quotient obtained when creditable compensation paid in that year is divided by the service credit for that year, . . .

Discussion

5. The parties agree that because respondent has more than 25 years of “credited service” he is entitled to have his retirement allowance calculated under Education Code section 22134.5. As set forth by that statute, respondent’s final compensation is to be based on his “highest average annual compensation earnable” during “any period of 12 consecutive months” while he was an active member of the defined benefit program. CalSTRS determined that respondent’s highest average compensable earnable occurred during the 2009-2010 year, and based his final compensation on that amount. Respondent does not question the accuracy of the CalSTRS calculations of his compensable earnable. Instead, he argues that CalSTRS should base his final compensation based on the 12-month period of February 2003 to January 2004, when he received his highest rates of pay. Notwithstanding his higher earnings, respondent’s compensation earnable for this period is less than his compensation earnable for 12-month period of 2009-2010 due to the application of the statutory formula, which takes into consideration the lower pay rates in calculating the average. (Ed. Code, § 22115, subs. (c) & (d).)

In sum, CalSTRS correctly utilized the 12-month period of 2009-2010 to determine respondent’s final compensation, because it was his highest average annual compensation earnable.

ORDER

The appeal of Michael Janvier is denied.

DATED: May 22, 2013



MELISSA G. CROWELL
Administrative Law Judge
Office of Administrative Hearings