

Bond Case Briefs

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BENEFITS - OHIO

State ex rel. O'Grady v. Griffing

Supreme Court of Ohio - August 28, 2014 - N.E.3d - 2014 -Ohio- 3687

City employee, who applied with Public Employee Retirement System (PERS) to commence receiving her vested statutory retirement benefits, sought writ of mandamus to compel city's fiscal officer to certify her final payroll. The Court of Appeals granted writ. City's fiscal officer appealed as of right.

The Supreme Court of Ohio held that, without direct evidence that city employee had actually resigned or been terminated, fiscal officer had no clear legal duty to file the form with employee's final-earnable-salary date for purposes of retirement benefits.

Without direct evidence that city employee had actually resigned or been terminated, city auditor could not know for sure that employee had carried out the intent expressed in the judge's letter, stating that employee was going to take her Ohio Public Employees Retirement System (OPERS) retirement, but would remain as a court employee in her present position, and thus, auditor had no clear legal duty to file the form with employee's final-earnable-salary date for purposes of retirement benefits. Employee never terminated her service for purposes of OPERS, because she failed to write a letter of resignation or get the judge to officially terminate her.