

IN THE MATTER OF THE SUSPENSION :
OF THE CERTIFICATION OF : COMMISSIONER OF EDUCATION
LYNNE C. EINHORN, SCHOOL :
DISTRICT OF THE TOWNSHIP OF : DECISION
EDISON, MIDDLESEX COUNTY. :

SYNOPSIS

In October 2006, the petitioning school district served an Order to Show Cause upon respondent – a non-tenured school social worker – requiring respondent to show cause why an order should not be entered suspending her certificate, pursuant to *N.J.S.A. 18A:26-10*, for resigning without providing the amount of notice required by her contract with petitioner. The respondent failed to answer the order, but submitted a note in December 2006 stating that she was unable to return to work due to “health concerns,” and had retained counsel. Respondent’s attorney requested an extension to December 30 to respond to the order to show cause, but no answer has been filed to date. Respondent was duly advised that, pursuant to *N.J.A.C. 6A:3-1.5(e)*, failure to respond would cause each allegation in petitioner’s papers to be deemed admitted, and might result in summary decision by the Commissioner.

There being no response to the order to show cause, the Commissioner concluded that the allegations – which respondent has chosen not to deny – may be deemed admitted, and are sufficient to justify suspension of respondent’s certification. Accordingly, summary decision is granted to petitioner, and respondent’s certificate is suspended for a period of one year from the date of the filing of this decision – a copy of which has been forwarded to the State Board of Examiners for the purpose of effectuating this order.

<p>This synopsis is not part of the Commissioner’s decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.</p>

February 16, 2007

IN THE MATTER OF THE SUSPENSION :
OF THE CERTIFICATION OF : COMMISSIONER OF EDUCATION
LYNNE C. EINHORN, SCHOOL :
DISTRICT OF THE TOWNSHIP OF : DECISION
EDISON, MIDDLESEX COUNTY. :

For Petitioner, Wilentz, Goldman & Spitzer

For Respondent, Barbara Einhorn, Esq.

This matter was opened before the Commissioner of Education on October 12, 2006 by way of an Order to Show Cause served by petitioner, Edison Board of Education, upon respondent, Lynne C. Einhorn, requiring respondent to show cause why an order should not be entered suspending her certificate – pursuant to *N.J.S.A. 18A:26-10* – for resigning without providing the amount of notice required by her contract with petitioner. By notice dated October 12, 2006, the Bureau of Controversies and Disputes (the Bureau) directed respondent, via regular mail, to file an answer to the order to show cause within twenty days. By amended notice dated October 24, 2006, the Bureau directed respondent – via regular and certified mail – to file an answer to the order to show cause within twenty days. The notice sent by certified mail was returned unclaimed, but the notice sent by regular mail was not.

On November 22, 2006, the Bureau sent respondent a final notice – via regular and certified mail – directing respondent to file an answer within ten days. The final notice advised that, pursuant to *N.J.A.C. 6A:3-1.5(e)*, failure to respond would cause each allegation in petitioner’s papers to be deemed admitted, and might result in summary decision by the Commissioner. The certified notice was returned to the Commissioner unclaimed, but the notice sent by regular mail was not.

On December 5, 2006, respondent faxed to the Bureau a two-sentence note advising that she was unable to return to work due to unspecified “health concerns” and that she had retained counsel, who had requested an adjournment. Attached to respondent’s note was a doctor’s note that had been written four months earlier, on August 15, 2006, stating that respondent was “currently suffering from a medical condition which can be directly related to her current work environment,” and recommending that respondent “find a new work situation for the sake of her health . . . where she should have no difficulty working at her usual work level.”

Respondent’s attorney, Barbara Einhorn, faxed the Bureau a letter on December 7, 2006, asking for an extension to December 30, 2006, to respond to the order to show cause. On December 8, 2006, attorney Einhorn obtained the consent of her adversary to the extension, and same was granted. No answer having been received by December 30, 2006, the Bureau sent respondent’s attorney a final notice, dated January 19, 2007, via regular and certified mail. Proof of delivery of the certified mail, with respondent’s attorney’s signature dated January 23, 2007, was returned to the Bureau on January 25, 2007. No answer to the order to show cause has been filed as of this date.

As stated above, the first communications from the Bureau to respondent clearly provided respondent with notice that she was required to file an answer within 20 days from receipt of the order to show cause. The final notices to respondent and to respondent’s attorney clearly advised that if an answer was not filed within ten days of receipt of same, each allegation in the papers supporting the order to show cause would be deemed to have been admitted and the Commissioner might decide the matter on a summary basis. The Bureau has received neither an

answer to the order to show cause from the respondent nor an answer from respondent's attorney.

The Commissioner now concludes that the allegations – which respondent has chosen not to deny – may be deemed admitted, pursuant to *N.J.A.C. 6A:3-1.5(e)*, and are sufficient to justify an order suspending respondent's certification. Accordingly,

IT IS THEREFORE ORDERED that summary decision is granted to petitioner, and respondent's certification is suspended pursuant to *N.J.S.A. 18A:26-10* for a period of one year from the date of filing of this decision. A copy of this decision is hereby forwarded to the State Board of Examiners for the purpose of effectuating this order.¹

COMMISSIONER OF EDUCATION

Date of Decision: February 16, 2007

Date of Mailing: February 20, 2007

¹ This decision may be appealed to the State Board of Education pursuant to *N.J.S.A. 18A:6-27 et seq.* and *N.J.A.C. 6A:4-1.1 et seq.*