

#435-08 (OAL Decision: Not yet available online)

JENNIFER G. WALLACE, :

PETITIONER, : COMMISSIONER OF EDUCATION

V. : DECISION

BOARD OF EDUCATION OF :
 THE TOWNSHIP OF FRANKLIN, :
 HUNTERDON COUNTY, :

RESPONDENT. :

SYNOPSIS

Petitioner – a former technology teacher in the respondent Board’s district – contests the Board’s decision not to renew her annual contract for the 2006-2007 school year, alleging that the decision was improperly based on parental complaints expressed during the public portion of the meeting at which the Board was scheduled to take action on her contract. The Board filed a motion for summary decision asserting its right to non-renew the petitioner, who would have attained tenure in the district had her contract been renewed.

The ALJ found, *inter alia*, that: the issue in this matter is whether the Board acted in an unreasonable, arbitrary or capricious manner; there are no material facts in dispute that are relevant to the action taken by the Board in May of 2006; petitioner’s procedural arguments are without merit; petitioner’s rights to due process were not violated; and the Board has discretion to terminate the employment of a non-tenured teacher so long as the employee’s constitutional and legislatively conferred rights are not violated. The ALJ concluded that the Board based its decision not to renew upon evaluations and public comment as is permissible, and this action was not unreasonable, arbitrary or capricious. The ALJ granted summary decision to the Board, and ordered the petition dismissed.

The Commissioner concurred with the ALJ that the respondent Board properly exercised its right to non-renew petitioner’s employment and adopted the Initial Decision as the final decision in this matter.

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.

October 30, 2008

OAL DKT. NO. EDU 6433-06
AGENCY DKT. NO. 250-7/06

JENNIFER G. WALLACE, :
 :
 PETITIONER, : COMMISSIONER OF EDUCATION
 :
 V. : DECISION
 :
 BOARD OF EDUCATION OF :
 THE TOWNSHIP OF FRANKLIN, :
 HUNTERDON COUNTY, :
 :
 RESPONDENT. :

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed, as have petitioner’s exceptions and the reply thereto by the Board of Education (Board), both duly filed pursuant to *N.J.A.C. 1:1-18.4*.

On exception, petitioner asks that the decision of the Administrative Law Judge (ALJ) be rejected and the matter remanded to the OAL for plenary hearing. Petitioner renews her arguments before the ALJ, reiterating that summary decision cannot be granted to the Board because material facts are in dispute and the inferences to which she is entitled as the non-moving party mandate a conclusion that the Board violated her right to due process and thus acted arbitrarily in nonrenewing her employment. (Petitioner’s Exceptions at 1-11)

In reply, the Board urges adoption of the Initial Decision in its entirety, reiterating that – notwithstanding certain factual disputes – petitioner presents no genuine issues of *material* fact entitling her to a hearing, and the undisputed facts clearly show that the Board provided petitioner with the requisite due process and acted in full accord with the law governing reemployment of nontenured teaching staff members. (Board’s Reply at 1-10)

Upon review, the Commissioner finds the arguments of the parties to have been fully and fairly considered by the ALJ,¹ who correctly concluded in light of the undisputed material facts that the Board provided petitioner with all of her constitutional and legislatively conferred rights and acted reasonably and lawfully in exercising its discretion not to offer a contract of reemployment that would have led to her acquiring tenure in the district.

Accordingly, for the reasons expressed therein, the Initial Decision of the OAL is adopted as the final decision in this matter, and the petition of appeal is dismissed.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: October 30, 2008

Date of Mailing: October 30, 2008

¹ Petitioner's exceptions are essentially a verbatim repetition of her brief in opposition to the Board's motion for summary decision, while the Board's reply substantially reiterates the arguments of its responsive brief in further support of the motion for summary decision.

² This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36*.