

#230-09

IN THE MATTER OF THE TENURE :
HEARING OF MICHAEL HARPER, : COMMISSIONER OF EDUCATION
MID-STATE CORRECTIONAL : DECISION
FACILITY, NEW JERSEY STATE :
DEPARTMENT OF CORRECTIONS. :
_____:

SYNOPSIS

Petitioner filed tenure charges of unbecoming conduct and other just cause against respondent, a tenured teacher, and sought to suspend him without pay for a period of 90 days. Neither respondent nor any attorney acting on his behalf filed an answer to the petition following notice pursuant to *N.J.A.C.* 6A:3-5.3 and 6A:3-5.4.

The Commissioner concluded that the allegations – which respondent has chosen not to deny – may be deemed admitted and are sufficient to warrant suspension of the respondent from his tenured position without pay for 90 days. Accordingly, the Commissioner granted summary decision to the petitioner and ordered respondent suspended without pay from his tenured position for 90 days.

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.

July 14, 2009

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For the Department, Dianne Moratti, DAG

No appearance by or on behalf of Respondent, Michael Harper

This matter was opened before the Commissioner of Education on May 11, 2009, through tenure charges of unbecoming conduct and other just cause certified by the Supervisor of Education of the New Jersey Department of Corrections (Department), together with supporting evidence against Michael Harper (respondent), a tenured teacher in the Department’s employ. Petitioner certified these charges to the Commissioner and provided respondent with written notice of such certification via certified mail sent on or about May 6, 2009.

On May 12, 2009, the Commissioner directed respondent – via both certified and regular mail– to file an answer to the charges. This communication clearly provided notice to respondent that, pursuant to *N.J.A.C. 6A:3-5.3* and *6A:3-5.4*, an individual against whom tenure charges are certified “*shall have 15 days from the day such charges are filed with the Commissioner to file a written response to the charges with the Commissioner,*” and that failure to answer within the prescribed period would – absent granting of an extension for good cause shown – result in the charges being deemed admitted. However, although respondent received the certified mailing

on May 27, 2009 – as evidenced by his signature on the return receipt (“green card”) – and the regular mailing was not returned as undeliverable, no reply was received from or on behalf of respondent.

The certified tenure charges and statement of supporting evidence filed by the Department in this matter indicate that on March 13, 2009, respondent was observed showing an unauthorized movie to his students during class time. On March 16 and March 23, 2009, respondent admitted to same.

Deeming these allegations to be admitted and noting that respondent has failed to respond to the charges certified against him, the Commissioner finds that the Department’s charges have been proven and that they warrant respondent’s 90-day suspension without pay.

Accordingly, summary decision is hereby granted to the Department, and respondent shall serve a ninety-day suspension without pay.

IT IS SO ORDERED.¹

COMMISSIONER OF EDUCATION

Date of Decision: July 14, 2009

Date of Mailing: July 16, 2009

¹ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36*.