

#382-09

IN THE MATTER OF THE TENURE :  
HEARING OF SHAWN F. JOHNSON, : COMMISSIONER OF EDUCATION  
SCHOOL DISTRICT OF THE CITY OF : DECISION  
ASBURY PARK, MONMOUTH COUNTY. :  
\_\_\_\_\_ :

SYNOPSIS

Petitioning Board filed tenure charges of neglect, misbehavior and conduct unbecoming against respondent, a tenured custodian, and sought his removal from employment in the Asbury Park School District. 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 removal of the respondent from his tenured position. Accordingly, the Commissioner granted summary decision to the Board and ordered respondent dismissed from his tenured position.

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.

November 18, 2009

AGENCY DKT. NO. 293-10/09

IN THE MATTER OF THE TENURE :  
HEARING OF SHAWN F. JOHNSON, : COMMISSIONER OF EDUCATION  
SCHOOL DISTRICT OF THE CITY OF : DECISION  
ASBURY PARK, MONMOUTH COUNTY. :  
\_\_\_\_\_:

For the Petitioner, Douglas J. Kovats, Esq. (Kenny, Gross, Kovats & Parton)  
No appearance by or on behalf of Respondent, Shawn F. Johnson

This matter was opened before the Commissioner of Education on October 22, 2009, through the filing of tenure charges of neglect, misbehavior and conduct unbecoming certified by the Secretary of the Asbury Park Board of Education, together with supporting evidence against respondent Shawn F. Johnson, a tenured custodian in the petitioner’s employ. Petitioner provided respondent with written notice of such certification via certified mail sent on or about October 16, 2009.

On October 22, 2009, the Commissioner directed respondent – via both certified and regular mail – to file an answer to the charges.<sup>1</sup> 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

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<sup>1</sup> This directive was also provided to the attorney identified by the Board as respondent’s attorney.

before the end of October 2009 – as evidenced by his signature on the return receipt (“green card”)<sup>2</sup> – 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 petitioning Board of Education in this matter allege that during the course of his employment, respondent left his post without permission, failed to perform assigned duties, created false time records so as to be paid for work not performed, and worked overtime without proper authorization.

Deeming these allegations to be admitted and noting that respondent has failed to respond to the charges certified against him, the Commissioner finds that petitioner’s charges have been proven and that they warrant respondent’s dismissal from tenured employment.

Accordingly, summary decision is hereby granted to petitioner, and respondent is dismissed from his tenured position in the district.

IT IS SO ORDERED.<sup>3</sup>

COMMISSIONER OF EDUCATION

Date of Decision: November 18, 2009

Date of Mailing: November 18, 2009

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<sup>2</sup> The numerical portion of the date stamped on the return receipt card is unreadable, although “October” and “2009” are clearly visible.

<sup>3</sup> Pursuant to *P.L. 2008, c. 36 (N.J.S.A. 18A:6-9.1)*, Commissioner decisions are appealable to the Appellate Division of the Superior Court.

