

#136-13

IN THE MATTER OF THE TENURE :
HEARING OF CEMRAN BIRICIK, : COMMISSIONER OF EDUCATION
SCHOOL DISTRICT OF THE CITY OF : DECISION
JERSEY CITY, HUDSON COUNTY. :
_____ :

SYNOPSIS

Petitioning Board filed tenure charges of conduct unbecoming against respondent, a tenured teacher, and sought to terminate her employment with the district. Neither respondent nor any attorney acting on her 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, pursuant to *N.J.A.C. 6A:3-5.4(h)*, the allegations – which respondent has chosen not to deny – may be deemed admitted and are sufficient to warrant termination of the respondent from her tenured position. Accordingly, the Commissioner granted summary decision to the petitioner, dismissed the respondent from her tenured position in petitioner’s school district, and forwarded a copy of this decision to the State Board of Examiners for review and action as that body deems appropriate. Additionally, the Commissioner encouraged the Board to consider filing an application for ordinary disability retirement on respondent’s behalf, if appropriate.

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.

April 16, 2013

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For the Board, R. Scott Eveland, Esq.

No appearance by or on behalf of Respondent, Cemran Biricik

This matter was opened before the Commissioner of Education on March 4, 2013, through certification of tenure charges of incapacity, neglect of duty and abandonment of position by the Board of Education of the City of Jersey City (Board) against Cemran Biricik (respondent), a tenured teacher in the Board’s employ. Following its review of the charges as filed, together with the supporting evidence and respondent’s reply, the Board had resolved on February 28, 2013 to certify these charges to the Commissioner and had provided respondent with written notice of such certification via regular and certified mail sent on March 4, 2013.¹

Upon receipt of the certified charges on March 4, 2013, the Department directed respondent – via both certified and regular mail, with respondent’s attorney notified via 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

¹ On the same date, notice was sent by regular and certified mail to respondent’s attorney.

the certified mailing on March 7, 2013 – as evidenced by an executed 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 Board in this matter indicate that: 1) due to an injury incurred in a fall at school, respondent was absent for 124 days during the 2007-08, 2008-2009 and 2009-2010 school years; 2) as a result of a second in-school injury in February 2011 respondent was absent for 60 days – the remainder of that school year; 3) respondent was unable to work for the entire 2011-2012 school year; and has not resumed her duties in the current school year.

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

Accordingly, summary decision is hereby granted to the Board, and respondent is dismissed from her tenured teaching staff position as of the filing date of this decision. The Board is encouraged to consider, if appropriate, filing an application for ordinary disability retirement on respondent’s behalf pursuant to *N.J.S.A. 18A:66-39*, and a copy of this decision shall be forwarded to the State Board of Examiners for review and action as it deems appropriate.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: April 16, 2013
Date of Mailing: April 16, 2013

² This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36* (*N.J.S.A. 18A:6-9.1*).