

491-14 (OAL Decision: Not yet available online)

ROSALYND SMITH, :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
STATE-OPERATED SCHOOL DISTRICT : DECISION
OF THE CITY OF PATERSON,
PASSAIC COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioner – a teaching staff member formerly employed by the Paterson School District (District) – contended that she was terminated from her teaching position in violation of her tenure rights. The respondent asserted that the appeal was not timely filed pursuant to *N.J.A.C. 6A:3-1.3(i)*, and furthered claimed that petitioner had not been employed under tenure. Petitioner was employed by the District: as a special education teacher under an emergency certificate from February 2001 through June 2007; as a per diem substitute teacher starting in January 2008; and as a special education teacher under a standard certificate from the end of January 2011 through June 2013. Petitioner was notified via letter dated May 15, 2013 that her employment would not be renewed for the 2013-2014 school year. The within appeal was filed on March 28, 2014.

The ALJ found, *inter alia*, that: petitioner filed her appeal pursuant to *N.J.A.C. 6A:3-1.1 et seq.*, which establishes procedures for appeals before the Commissioner; the time for filing is clearly set forth at *N.J.A.C. 6A:3-1.3(i)*, which provides that a petition of appeal before the Commissioner must be filed no later than the 90th day from the date of receipt of the notice of a final order or ruling; petitioner in the instant matter unequivocally learned that her employment was terminated on May 15, 2013; her appeal should have been filed at the latest within ninety days of that date; there are no facts present in this matter that would warrant the relaxation of the 90 day rule. Accordingly, the ALJ concluded that petitioner’s appeal should be dismissed as untimely.

Upon careful review, the Commissioner adopted the Initial Decision of the OAL as the final decision in this matter, and dismissed the petition.

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.

December 18, 2014

OAL DKT. NO. EDU 6076-14
AGENCY DKT. NO. 79-3/14

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The record of this matter and the Initial Decision of the Office of Administrative Law have been reviewed. The parties did not file exceptions to the Initial Decision.

Upon such review, the Commissioner concurs with the Administrative Law Judge's (ALJ) determination that the petition of appeal was time-barred under *N.J.A.C.* 6A:3-1.3(i). Accordingly, the Initial Decision is adopted as the final decision in this matter and the petition of appeal is dismissed.

IT IS SO ORDERED.¹

ACTING COMMISSIONER OF EDUCATION

Date of Decision: December 18, 2014

Date of Mailing: December 19, 2014

¹ 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).