

#179-15 (OAL Decision: Not yet available online)

WANDA BLACKWELL, :  
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 PETITIONER, :  
 :  
 V. : COMMISSIONER OF EDUCATION  
 :  
 STATE-OPERATED SCHOOL DISTRICT : DECISION  
 OF THE CITY OF NEWARK, :  
 ESSEX COUNTY, :  
 :  
 RESPONDENT. :

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### SYNOPSIS

Petitioner – a teaching staff member formerly employed in respondent’s school district -- alleged that she is entitled to reinstatement as a tenured teacher because the respondent improperly refused to permit her to rescind her resignation. Petitioner’s intent to resign effective October 31, 2014 was memorialized in a settlement agreement and simultaneous letter of resignation to respondent dated July 24, 2014. A clause within the parties’ settlement agreement stated that the petitioner had seven calendar days from the date of the execution of the agreement to rescind her resignation. By letter dated July 29, 2014, petitioner requested that her resignation be rescinded for personal reasons. The respondent refused to permit petitioner to rescind or withdraw her resignation. Petitioner contended that the separation agreement was not enforceable once she exercised her revocation rights, which had been expressly agreed upon by the parties. Further, petitioner argues that respondent’s action violated petitioner’s rights under the Older Workers’ Benefit Protection Act. The respondent filed a motion for summary decision, asserting that the petitioner’s claims should be dismissed for lack of jurisdiction.

The ALJ found, *inter alia*, that: there are no material facts at issue herein, and the matter is ripe for summary decision; the Commissioner’s jurisdiction is defined by statute, and is limited to “controversies and disputes arising under the school laws” (*N.J.S.A.* 18A:6-9); case law has held that where a controversy does not arise under Title 18A, it is outside of the jurisdiction of the Commissioner, even if the dispute pertains to school personnel; the Commission has consistently declined to exercise jurisdiction over contractual disputes; petitioner herein cites no provisions of the school laws in support of her claims; and petitioner’s belated claim that her letter of resignation was not accepted by the school district prior to its rescission – and therefore places this matter within the purview of school law – cannot be considered herein as that argument was not among the allegations presented in petitioner’s appeal. Accordingly, the ALJ concluded that the petition of appeal must be dismissed for lack of jurisdiction.

Upon comprehensive review, the Commissioner concurred with the findings and conclusion of the ALJ, and adopted the Initial Decision as the final decision in this matter. The petition was dismissed for lack of jurisdiction.

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.

June 1, 2015

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This matter involves whether the Commissioner’s jurisdiction encompasses a contractual dispute regarding petitioner’s employment in the district. The record and the Initial Decision of the Office of Administrative Law have been independently reviewed, along with petitioner’s exceptions – filed pursuant to *N.J.A.C.* 1:1-18.4 – and respondent’s reply to the exceptions. Upon full consideration of the controversy, the Commissioner concurs with the Administrative Law Judge’s (ALJ) findings, conclusions, and ultimate determination – for the reasons stated in the Initial Decision – to dismiss the petition for lack of jurisdiction.

The material facts are not in dispute. Petitioner’s intent to resign from her position as a tenured special education teacher effective October 31, 2014 was memorialized in a settlement agreement executed by the parties.<sup>1</sup> (Petition, ¶ 2-5) In accord with the terms of the agreement, petitioner simultaneously tendered a letter of resignation to respondent. (Petition, ¶ 4) Five days after she executed the agreement – and one day after the agreement was executed by the State district superintendent – petitioner sent a follow-up letter rescinding her

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<sup>1</sup>Petitioner signed the agreement and simultaneously submitted her letter of resignation on July 24, 2014. The State district superintendent signed the agreement on July 28, 2014, on behalf of respondent.

letter of resignation. (Petition, ¶ 5-6) However, the district replied that it was “not amenable” to petitioner rescinding or withdrawing her letter of resignation. (Petition, ¶ 7)

In her petition of appeal, petitioner alleged that either: 1) the agreement is not an enforceable contract because she revoked her resignation one day after the agreement was executed; or 2) the agreement is an enforceable contract and respondent violated the agreement as well as the Older Workers’ Benefit Protection Act, *P.L. 101-433, 29 U.S.C.A. § 626(f)*, when it failed to accept her “notice of rescission.”<sup>2</sup> (Petition, ¶ 8-12) As a consequence, petitioner requests reinstatement to her tenured teaching position. In response, the district filed a motion for summary decision asserting that the petition must be dismissed for lack of jurisdiction under *N.J.S.A. 18A:6-9*.

Upon review, the ALJ concluded the matter was ripe for summary decision and granted respondent’s motion since petitioner failed to allege any claims arising under school law.<sup>3</sup> To the extent petitioner belatedly raised an issue potentially cognizable under school law in her brief opposing respondent’s motion – namely, that “a school employee’s resignation is not binding unless and until it is accepted by the local board of education” – the Commissioner concurs with the ALJ that the petition contains “no factual allegations...related to her newly raised claim that her letter of resignation was not accepted by the District prior to its rescission.” (Initial Decision at 5-6) Furthermore, the petition was never amended.<sup>4</sup> On the contrary, the

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<sup>2</sup>Paragraph 10 of the parties’ agreement states: “To comply with the Older Workers Benefit Protection Act of 1990, if applicable...Blackwell...has seven (7) days from the date of the execution of this Agreement to revoke it. Blackwell understands that she may rescind this Agreement within seven (7) calendar days of signing it[.]” Via letter dated July 29, 2014, petitioner requested that her letter of resignation be rescinded for personal reasons.

<sup>3</sup>*N.J.A.C. 6A:3-1.4* requires that a petition include “a statement of the specific allegation(s) and essential facts supporting them which have given rise to a dispute under the school laws.”

<sup>4</sup>Once a petition of appeal is transmitted to the OAL, it can only be amended via the filing of a motion to be determined in accordance with applicable OAL rules. *N.J.A.C. 6A:3-1.7(b)*. The record does not contain any information indicating that petitioner ever filed a motion to amend her petition of appeal.

claims set forth in the petition concern only the interpretation of the parties' settlement agreement and federal law. As indicated in the Initial Decision, neither petitioner's contract claim nor her federal claim fall under the Commissioner's jurisdiction to hear and decide controversies arising under the school laws. *N.J.S.A. 18A:6-9; Bd. of Educ. v. Twp. Council of E. Brunswick*, 48 *N.J.* 94, 102 (1966) ("Where the controversy does not arise under the school laws, it is outside the Commissioner's jurisdiction even though it may pertain to school personnel"). Additionally, the Commissioner is not persuaded by petitioner's exceptions, which substantially reiterate the arguments presented below and endeavor to reframe the allegations in school law terms while ignoring the context out of which this dispute arose: *i.e.*, the parties' settlement agreement.

Accordingly, the Initial Decision is adopted as the final decision in this matter, respondent's motion for summary decision is granted, and the petition is dismissed for lack of jurisdiction.

IT IS SO ORDERED.<sup>5</sup>

COMMISSIONER OF EDUCATION

Date of Decision: June 1, 2015

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<sup>5</sup>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*).