

CHRISTOPHER GARUCCIO, :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 BOARD OF EDUCATION OF THE : DECISION
 CUMBERLAND REGIONAL SCHOOL :
 DISTRICT, CUMBERLAND COUNTY, :
 :
 RESPONDENT. :

SYNOPSIS

Petitioner asserted that this matter arose from harassment and inappropriate discipline he allegedly experienced over the last two years of his employment with the respondent school district. Petitioner was employed by the Board from 1992 until November 2013, when he received notice that the Board intended to file tenure charges against him; petitioner subsequently resigned his teaching position with the district. In June 2014, the petitioner filed a complaint against the school district with the U.S. Equal Employment Opportunity Commission (EEOC), after which he reviewed his personnel file and discovered that the tenure charges had not been filed. The EEOC closed its file on petitioner's case in April 2015, after having been unable to conclude that a violation had occurred. Petitioner subsequently filed the within petition on December 17, 2015, seeking "closure" through monetary relief, apologies and an acknowledgment that he had been treated unfairly. The Board filed a motion to dismiss, asserting that the petition was untimely pursuant to *N.J.A.C. 6A:3-1.3(i)*.

The ALJ found, *inter alia*, that: *N.J.A.C. 6A:3-1.3(i)* provides that a petitioner must file an appeal no later than the 90th day from the date of receipt of the notice of a final order, ruling or other action by the board of education, which is the subject of the requested contested case hearing; in the within case, petitioner received notice that tenure charges were being filed against him on or about November 15, 2013; consequently, petitioner resigned his employment; in July 2014, petitioner discovered that the tenure charges had never been filed; if the petitioner had been challenging the employment action that was taken against him or wished to rescind his resignation, the ninety-day time limit would have lapsed – at the very latest – in October 2014; petitioner did not file his appeal until December 17, 2015. The ALJ concluded that the petition was untimely filed pursuant to *N.J.A.C. 6A:3-1.3(i)*; accordingly, the ALJ granted the Board's motion to dismiss, and dismissed the petition.

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

<p>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.</p>

July 28, 2016

OAL DKT. NO. EDU 457-16
AGENCY DKT. NO. 368-12/15

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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 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

COMMISSIONER OF EDUCATION

Date of Decision: July 28, 2016

Date of Mailing: July 29, 2016

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*).