

#175-16

IN THE MATTER OF THE TENURE :
HEARING OF KELLY CHESNEY, : COMMISSIONER OF EDUCATION
SCHOOL DISTRICT OF THE TOWN OF : DECISION
KEARNY, HUDSON COUNTY. :

SYNOPSIS

Petitioning Board certified tenure charges of unbecoming conduct against respondent – a tenured teacher under the Board’s employ – and sought to terminate her employment with the district. Neither respondent nor any attorney acting on her behalf filed an answer to the tenure charges 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:3-5.3(c)*, the allegations – which respondent has chosen not to deny – may be deemed admitted and overwhelmingly warrant the 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.

<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>

May 9, 2016

IN THE MATTER OF THE TENURE :
HEARING OF KELLY CHESNEY, : COMMISSIONER OF EDUCATION
SCHOOL DISTRICT OF THE TOWN OF : DECISION
KEARNY, HUDSON COUNTY. :

For the Petitioner, Kenneth J. Lindenfelser, Esq.

No appearance by or on behalf of Respondent, Kelly Chesney

This matter was opened before the Commissioner of Education on March 24, 2016, through tenure charges of conduct unbecoming certified by Patricia Blood, Superintendent of the Kearny School District, together with supporting evidence against respondent, Kelly Chesney, a tenured teacher in the petitioner’s employ. The petitioner provided respondent with written notice of such certification at the respondent’s last known address, via UPS Overnight Delivery and certified mail on March 23, 2016. The petitioner also served a copy of the tenure charges on the respondent’s union representative.

On March 28, 2016, the Commissioner directed the respondent – via both certified and 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. No reply to the tenure charges was received from or on behalf of respondent.

The certified tenure charges and statement of supporting evidence filed by the petitioner in this matter indicate that respondent has been employed as a teacher in the District since September 1, 2002. On June 17, 2015, the respondent tested positive for cocaine. The respondent was directed by the District to follow Board Policy Regulation #3218 (Substance Abuse) and submit proof of the required counseling. On October 8, 2015, the respondent again tested positive for cocaine and was directed to follow Board Policy Regulation #3218. Respondent was also warned that any future positive test results for a controlled substance would result in the filing of tenure charges. After falling asleep in class on February 2, 2016, the petitioner directed the respondent to go for a substance use screening and the respondent again tested positive for cocaine.

Deeming the allegations to be admitted and noting that respondent has failed to respond to the charges certified against her, the Commissioner finds that petitioner's charge of conduct unbecoming a teaching staff member has been proven and overwhelmingly warrants the respondent's dismissal. Accordingly, summary decision is hereby granted to the petitioner, and the respondent is dismissed from her tenured position with the District. This matter will be transmitted to the State Board of Examiners for action against respondent's certificate(s) as that body deems appropriate.

IT IS SO ORDERED.¹

COMMISSIONER OF EDUCATION

Date of Decision: May 9, 2016

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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*)