

EDU #9264-95
C # 488-97
SB # 82-97

IN THE MATTER OF THE TENURE :
HEARING OF THOMASINA LEMON, : STATE BOARD OF EDUCATION
STATE-OPERATED SCHOOL DISTRICT : DECISION
OF THE CITY OF NEWARK, ESSEX :
COUNTY. :

Decided by the Commissioner of Education, September 17, 1997

For the Petitioner-Respondent, Gregory G. Johnson, Esq.

For the Respondent-Appellant, Robert T. Pickett, Esq.

The decision of the Commissioner of Education dismissing respondent from her tenured employment is affirmed for the reasons expressed therein. In so doing, we reject respondent's contention that we should dismiss the tenure charges against her at this point on the procedural grounds that the district board¹ did not certify those charges to the Commissioner within 45 days after they were served on respondent, as required by N.J.S.A. 18A:6-13. We stress that the Administrative Law Judge ("ALJ") expressly provided respondent with the opportunity on June 10, 1996 to file a motion to dismiss the tenure charges on this basis. The ALJ required only that respondent file the motion within ten days. Tr. 6/10/96, at 3-8. Respondent, however, failed to file

such a motion, and did not do so until January 27, 1997, more than seven months later and after completion of the extensive hearings in this matter.

We also deny respondent's request for oral argument as not necessary for a fair determination of this matter. N.J.A.C. 6:2-3.2.

February 4, 1998

Date of mailing _____

¹ We note that the State Board did not direct the creation of a State-operated school district in Newark until July 5, 1995, subsequent to the certification of the instant tenure charges.