

RICO PAGE, :

PETITIONER, :

V. : COMMISSIONER OF EDUCATION

BOARD OF EDUCATION OF : DECISION

THE CITY OF CAMDEN,

CAMDEN COUNTY, :

RESPONDENT. :

SYNOPSIS

Petitioning clerical worker challenged Board’s withholding of his increment for the 1996-97 school year for alleged insubordination and unsatisfactory performance. Petitioner contended the Board’s actions were procedurally defective pursuant to *N.J.S.A. 18A:29-14*.

ALJ found that the procedural deficiencies alleged by petitioner were either not proven or *de minimus* in nature given the facts in this matter. ALJ granted the Board’s motion for summary decision dismissing the petition and denied petitioner’s cross-motion for summary decision restoring his increment.

Commissioner affirmed the ultimate conclusion of the ALJ dismissing the petition, but for reasons other than those expressed by the ALJ. Commissioner noted that since petitioner was a “reproduction clerk,” not a teaching staff member, the requirements of *N.J.S.A. 18A:29-14* were not applicable herein. Thus, in that petitioner had made no showing of entitlement to a salary increment, alleged no violation of procedures set forth in contract or Board policy, and did not contend that the Board lacked a reasonable basis for withholding his increment, petitioner advanced no cognizable cause of action before before the Commissioner. Petition was dismissed.

SEPTEMBER 29, 1997

OAL DKT. NO. EDU 8984
AGENCY DKT. NO. 438-9/96

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The record of this matter and the initial decision of the Office of Administrative Law (OAL) have been reviewed. No exceptions were filed by the parties.

Upon an independent review of the record in this matter, although the Commissioner determines to affirm the ultimate conclusion of the Administrative Law Judge (ALJ), *i.e.*, dismissal of the within Petition of Appeal, he does so for the reasons which follow, rather than those expressed in the initial decision.

Initially, the Commissioner observes that all issues and arguments of the parties, and the discussion of the ALJ, are framed in terms of procedures dictated by *N.J.S.A. 18A:29-14*, a statutory provision which is specifically applicable only to *teaching staff members*. As the record here indicates that the within petitioner is a “reproduction clerk,” the requirements of that statute are not applicable to these proceedings.

As such, given that petitioner has made no showing of entitlement to an increment, either by contract* or through Board policy; has not claimed any violation of procedures set forth in any such contract or policy; nor does he contend that the Board did not have a reasonable basis for withholding his increment, he has advanced no cognizable cause of action before the Commissioner.

Accordingly, the initial decision of the OAL dismissing the within Petition of Appeal is adopted as the final decision in this matter for the reasons articulated herein, and such petition is hereby dismissed with prejudice.

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

SEPTEMBER 29, 1997

* It is noted that a claim of a contractual entitlement would place this matter outside the jurisdictional purview of the Commissioner of Education.