

RICHARD MANFRIA, :  
PETITIONER, :  
V. : COMMISSIONER OF EDUCATION  
BOARD OF EDUCATION OF THE : DECISION  
UNION COUNTY VOCATIONAL- :  
TECHNICAL SCHOOL DISTRICT, :  
UNION COUNTY, :  
RESPONDENT. :  
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SYNOPSIS

Petitioner, former Director of Buildings and Grounds, contended the Board wrongfully refused to accept withdrawal of his retirement notice but, rather, subsequent to receipt of such notice, acted to eliminate his position.

Initially, the ALJ concluded that petitioner failed to show good cause to compel the taking of depositions and, therefore, the motion to compel depositions was denied. ALJ found that petitioner’s claim that his acquisition of knowledge regarding his workers’ compensation benefits or his learning that the Board had not accepted his withdrawal did not trigger the 90-day limitations period. Rather, the Board’s action of June 27, 1995 accepting his resignation for retirement started the clock. Thus, the ALJ concluded that as a matter of law petition filed in October 1996 was time barred. ALJ concluded that even if this action were not time barred, petitioner cannot now unilaterally rescind or renegotiate his retirement package as it was duly accepted by the Board. The Board’s motion for summary judgment was granted. Petition was dismissed.

Commissioner adopted findings and determination in initial decision as his own with modification. Commissioner concurred with the denial of motion for deposition as petitioner failed to establish “good cause” pursuant to *N.J.A.C. 1:1-10.2(c)i*. Commissioner further agreed with the ALJ that the law was clear that petitioner could not unilaterally rescind his planned retirement that had been duly accepted by the Board. Therefore, Commissioner granted Board’s motion for summary decision. The Commissioner determined given that the result in this case on its merits was clear, that it was unnecessary to consider the procedural issue with respect to the exact point in time petitioner’s within cause of action arose in that it would contribute nothing to the ultimate outcome of this matter. Petition was dismissed.

OCTOBER 2, 1997

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

Upon his review, the Commissioner initially concurs with the Administrative Law Judge (ALJ) that, as the within petitioner has failed to establish “good cause,” pursuant to *N.J.A.C. 1:1-10.2(c)i*, to justify depositions being compelled from the District’s Superintendent and School Business Administrator, his motion in this regard must be denied. The Commissioner further agrees with the ALJ that the law is clear that petitioner in this matter, having proffered notice of his planned retirement, which was duly accepted by the Board in June 1995, cannot, subsequently, unilaterally rescind such retirement, (*see Andrews, Cutro, Fisher, Hanley, Sathan, supra*) and, as such, the Board’s motion for summary decision must be granted.\*

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\* In that the result in this case on its merits is clear, *i.e.*, the Board is entitled to summary decision as a matter of law, the Commissioner resolves that an arduous consideration of the parties’ respective arguments and the discussion of the ALJ on the *procedural issue* with respect to the exact point in time petitioner’s within cause of action arose is unnecessary in that it would contribute nothing to the ultimate outcome of this matter. As such, the Commissioner declines to reach this procedural issue.

Accordingly, the initial decision, as modified herein, is adopted. Summary decision is hereby granted to the Board, and the Petition of Appeal is dismissed.

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

OCTOBER 2, 1997