

KENILWORTH EDUCATION ASSOCIATION,	:	
	:	
CHARGING PARTY,	:	
	:	
V.	:	
	:	
KENILWORTH BOARD OF EDUCATION, UNION COUNTY,	:	COMMISSIONER OF EDUCATION
	:	
RESPONDENT.	:	DECISION
_____	:	
	:	
LINDA AMITRANO,	:	
	:	
PETITIONER,	:	
	:	
V.	:	
	:	
KENILWORTH BOARD OF EDUCATION, UNION COUNTY,	:	
	:	
RESPONDENT.	:	
_____	:	

SYNOPSIS

In consolidated matter, petitioning Association and Linda Amitrano, office secretary whose position was eliminated, alleged bad faith bargaining and violation of Amitrano's tenure and seniority rights in Board's failure to appoint her to the new position of Clerk/Receptionist/Attendance Officer immediately upon its creation on July 1, 1995.

ALJ found that the Board did not engage in bad faith bargaining or violate the New Jersey Employer-Employee Relations Act, nor did it violate Amitrano's tenure and seniority rights, by not appointing Amitrano to the new position until August 1, 1995. PERC affirmed those aspects of the ALJ's decision within its jurisdiction.

With respect to those aspects under the Commissioner's jurisdiction, Commissioner adopted initial decision as his own and dismissed the petition. Commissioner found that the Board's conduct was in no manner an arbitrary, capricious or unreasonable exercise of the Board's lawful discretion as the Board promptly offered petitioner the new full-time position and appointed her immediately upon her first indication that she was willing to work for the salary set by the Board pending further negotiations.

March 9, 1998

PERC DKT. NO. CO-H-96-76, OAL DKT. NO. EDU 11374-95 (CONSOLIDATED)
AGENCY DKT. NO. 398-10/95

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	:	
RESPONDENT.	:	
_____	:	

The initial decision and record of this consolidated matter, now before the Commissioner for final decision on those issues within his jurisdiction as set forth above, have been reviewed. Timely exceptions were filed by petitioners pursuant to *N.J.A.C.* 1:1-1.18.4, as were replies by the Respondent Board of Education (Board).

In the instant proceeding, petitioners claim violation of Amitrano's tenure and seniority rights as a consequence of the Board's failure to appoint her to the position of Clerk/Receptionist/Attendance Officer effective July 1, 1995, rather than on August 1, 1995, due to the inability of the parties to agree on an acceptable salary. Petitioners further claim that the Board's actions in this matter were an arbitrary,

capricious and unreasonable exercise of the Board's managerial prerogative, in that they had a "chilling" effect on negotiations and constituted nothing more than an attempt to force Amitrano's agreement to the Board's proposed salary.

Upon review, the Commissioner determines to reject petitioners' claims. No showing has been made herein that the Board violated Amitrano's tenure rights following reduction of her prior position to half-time; to the contrary, the Board promptly offered Amitrano a newly created full-time position within her area of entitlement, and appointed her to that position immediately upon her first indication that she was, in fact, willing to work for the salary set by the Board pending further negotiations. Further, even as the ALJ and the Public Employment Relations Commission found the Board's conduct not to constitute a failure to negotiate in good faith, the Commissioner finds that such conduct was in no manner an arbitrary, capricious or unreasonable exercise of the Board's lawful discretion.

Accordingly, the initial decision of the ALJ is adopted as the final decision in this matter as to those issues within the purview of the Commissioner of Education, and the Petition of Appeal is hereby dismissed.¹

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

March 9, 1998

¹ This decision, as the Commissioner's final determination in the instant matter, may be appealed to the State Board of Education pursuant to *N.J.S.A. 18A:6-27 et seq.* and *N.J.A.C. 6:2-1.1 et seq.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.