

OLIVE HARVEY, :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 STATE-OPERATED SCHOOL : DECISION
 DISTRICT OF THE CITY OF :
 NEWARK, ESSEX COUNTY, :
 :
 RESPONDENT. :
 :
 _____ :

SYNOPSIS

Petitioning teacher alleged the District's action denying her tenure as a vice principal was arbitrary, capricious and unreasonable. District contended petitioner's summative evaluation was unsatisfactory overall.

ALJ noted summary decision was appropriate. It was undisputed that petitioner did not serve as vice principal for the time required to attain tenure and both parties agreed that in order to prevail petitioner had to prove that the District's action was "based on frivolous, capricious, or arbitrary considerations which have no relationship to the purpose to be served." (*Donaldson*) ALJ granted summary decision to the District, finding that the superintendent acted well within her discretionary authority in nonrenewing petitioner's contract as a vice principal based on the negative evaluation by one of the District's assessors. Petition was dismissed.

Commissioner adopted findings and determination in initial decision as his own.

OCTOBER 7, 1998

OAL DKT. NO. EDU 10914-96
AGENCY DKT. NO. 514-10/96

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The record of this matter and the initial decision of the Office of Administrative Law (OAL) have been reviewed. Petitioner's exceptions and the District's reply thereto were filed within the time prescribed by *N.J.A.C.* 1:1-18.4, and both submissions were fully considered by the Commissioner in reaching his determination herein.

Upon his independent and careful review of the record, the Commissioner finds petitioner's exception arguments without merit. Rather, he is satisfied, for the reasons cogently presented and discussed in the Administrative Law Judge's initial decision, that summary decision in this matter is appropriately granted to the District.

Accordingly, the initial decision of the OAL is affirmed and the within Petition of Appeal is hereby dismissed.*

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

OCTOBER 1, 1998

* 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.