

IN THE MATTER OF THE SUSPENSION :
OF THE TEACHING CERTIFICATE OF :
ELAINE BROWN, STATE-OPERATED : COMMISSIONER OF EDUCATION
SCHOOL DISTRICT OF THE CITY OF : DECISION
NEWARK, ESSEX COUNTY. :
_____ :

SYNOPSIS

The District sought suspension of respondent’s teaching certificate pursuant to *N.J.S.A.* 18A:26-10 for abandoning her position without 30 days notice to the District. Petitioner contested the application.

The ALJ determined that, although respondent was overwhelmed by her situation, she demonstrated no valid basis for abandoning her position without notice and did not express even a “shred of concern” for the students whom she abandoned. The ALJ deemed respondent’s conduct unprofessional. The ALJ recommended a six-month suspension of respondent’s certificate.

The Commissioner affirmed the ALJ’s determination that respondent’s conduct was unprofessional. However, based on the ALJ’s findings of respondent’s lack of concern for students, the detrimental impact respondent’s resignation had on her students, and case precedent, the Commissioner suspended respondent for the full year permitted by the statute.

November 26, 2001*

* Corrected for Internet publication – issued synopsis page erroneously reads “November 27, 2001”

OAL DKT. NO. EDU 10220-00
AGENCY DKT. NO. 405-11/00

IN THE MATTER OF THE SUSPENSION :
OF THE TEACHING CERTIFICATE OF :
ELAINE BROWN, STATE-OPERATED : COMMISSIONER OF EDUCATION
SCHOOL DISTRICT OF THE CITY OF : DECISION
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_____:

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. Although respondent was granted an extension of time in which to submit exceptions to the Initial Decision, there is no indication that the exceptions were served upon the District in accordance with *N.J.A.C.* 1:1-18.4, and no reply was received from the District.

Upon careful and independent review of the record in this matter, the Commissioner concurs with the ALJ that the District has demonstrated that respondent's undeniable failure to comply with the provisions of *N.J.S.A.* 18A:26-10 is sufficient to warrant the suspension of her teaching certificate. However, for the reasons set forth below, the Commissioner modifies the ALJ's recommended penalty.

Pursuant to the enabling statute, as noted *supra*, the Commissioner has both the authority and the discretion to suspend a teacher's certificate for a period of up to one year for ceasing to perform her duties before the expiration of the terms of her employment. *N.J.S.A.* 18A:26-10. There is no dispute that respondent abandoned her teaching position just days into the 2000-2001 school year, knowing that she was not yet "released" from her position, and

giving no advance notice to the District of her departure. (Initial Decision at 2) Respondent offers no explanation for her abrupt resignation, other than a vague attestation that “she was overwhelmed and feeling fearful,” and her assignment was causing her to feel ill every day. (Initial Decision at 3) However, there is nothing on the record before the Commissioner to verify that respondent, for valid medical reasons or legitimate safety concerns was *unable* to stay an additional 30 days. Thus, respondent has failed to advance any compelling explanation for “unilaterally abrogating the terms of [her] employment,” *In re Lance Cronmiller*, 1970 S.L.D. 147, 148, and has demonstrated no attempt to either meet her 30-day obligation *or* to arrive at another mutually-acceptable time-frame for her departure. As a result, the ALJ found:

[T]here were many day-to-day substitutes for that third grade class from September to December. Sometime in December a permanent substitute was found and continued in the position until a permanent teacher was found at approximately the end of January 2001. The loss of continuity of instructions for the children led to a major adjustment for these third graders. It is clear that the whole situation also resulted in loss of educational opportunity for the children. (Initial Decision at 4)

Even more disturbing is the ALJ’s finding that respondent showed “no shred of concern for the educational well-being of the children she left in the lurch.” (*Ibid.*)¹ Under these circumstances, the Commissioner can find no basis to justify a lesser penalty than that permitted by law, and generally imposed. See *In re Montalbano, School District of Ridgefield Park*, decided by the Commissioner June 11, 2001; *In re Falco, Board of Education of Ramapo Indian Hills*, decided by the Commissioner May 24, 1999; *In re Verbesky, East Newark Board of Education*, decided by the Commissioner September 25, 1998; *Penns Grove-Carney’s Point Regional School District v. Leinen*, 94 N.J.A.R. 2d EDU 405; *Collingswood Board of Education*

¹ The Commissioner notes that the ALJ’s credibility determination is entitled to deference, in that she, as the finder of fact, had the greatest opportunity to observe the demeanor of the witnesses, and, consequently, is better able to judge their credibility. *In the Matter of Tenure Hearing of Tyler*, 236 N.J. Super. 478, 485 (App. Div. 1989), *certif. denied*, 121 N.J. 615 (1990).

v. Cashel, 1988 S.L.D. 1898; *Dumont v. Zweig*, 1988 S.L.D. 904; *In re Acken*, 1986 S.L.D. 2816; *Dunellen Board of Education v. Drake*, 1987 S.L.D. 2016; and *Cronmiller*, *supra*.

Accordingly, the Commissioner concludes that respondent is guilty of unprofessional conduct pursuant to *N.J.S.A.* 18A:26-10 and, as such, her teaching certificate shall be suspended for a period of one year, to commence upon the date of this decision. A copy of this decision is hereby forwarded to the State Board of Examiners for the purpose of effectuating the within decision and taking such further action, if any, as it deems appropriate.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: November 26, 2001

Date of Mailing: November 27, 2001

² This decision, as the Commissioner's final determination, 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.* 6A:4-1.1 *et seq.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.