

IN THE MATTER OF THE TENURE HEARING :
OF MICHELE HERNANDEZ, SCHOOL :
DISTRICT OF THE CITY OF ELIZABETH, : COMMISSIONER OF EDUCATION
UNION COUNTY. :
DECISION

SYNOPSIS

The Board filed tenure charges against respondent, a secretary in the Board's employ, alleging excessive absenteeism, incapacity, unbecoming conduct, abandonment of position and abuse of sick leave. An answer denying the charges was filed on behalf of respondent.

At the OAL, respondent's attorney, who had been retained by her union, sought to be relieved as counsel for respondent because, from the inception of this case, he has been unable to contact respondent or communicate with her. The motion was granted on the adjourned hearing date and, despite being forwarded notice of the hearing, respondent failed to respond or appear. The ALJ, based on the *ex parte* proofs submitted by the Board at the hearing, determined that the Board had sustained its charges of excessive absenteeism and incapacity, and recommended dismissal of respondent.

The Commissioner affirmed the decision of the ALJ for the reasons set forth therein.

October 15, 2001

OAL DKT. NO. EDU 3126-01
AGENCY DKT. NO. 50-2/01

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The parties filed no exceptions.

Upon his full and independent review the Commissioner concurs with the findings and conclusions of the Administrative Law Judge that, under the circumstances here, *ex parte* submissions of proofs were appropriate and such proofs satisfy the Board's burden of establishing its charges of excessive absenteeism and incapacity against respondent, necessitating her dismissal from her tenured position.

Accordingly, the Initial Decision of the OAL is affirmed for the reasons stated therein. Respondent Michele Hernandez is terminated from her tenured secretarial position with the Board of Education of the City of Elizabeth as of the date of this decision.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: October 15, 2001

Date of Mailing: October 15, 2001

* 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:2-1.1 et seq.* Commissioner decisions are deemed filed three days after the date of mailing to the parties.

