

#298-07 (OAL Decision: Not yet available on-line)

MAURICE S. KAPROW, :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF : DECISION
BERKELEY TOWNSHIP, OCEAN COUNTY, :
RESPONDENT. :
_____ :

SYNOPSIS

Petitioner sought resolution of one remaining issue following an August 2006 Commissioner’s decision, and a March 2007 Interlocutory Order which concluded that petitioner’s claims for payment of accrued vacation/personal days and health insurance waiver following his successful action seeking appointment to the position of District Director of Elementary Education were not cognizable before the Commissioner, but had to be pursued in Superior Court. The final remaining issue involved petitioner’s claim for post-judgment interest.

The ALJ found that a check for \$611.33 has been paid to the petitioner, representing full payment of petitioner’s claim for post-judgment interest. Consequently, the ALJ concluded that the sole remaining issue in dispute has been resolved, and ordered dismissal of the contested case as moot.

Upon a full and independent review, the Commissioner concurred with the Administrative Law Judge – for the reasons clearly stated in his decision – that this matter is now moot, and dismissed the petition.

This synopsis is not part of the Commissioner’s decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.

July 23, 2007

OAL DKT. NO. EDU 12277-06
AGENCY DKT. NO. 397-11/06

MAURICE S. KAPROW, :
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 PETITIONER, :
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 V. : COMMISSIONER OF EDUCATION
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 BOARD OF EDUCATION OF : DECISION
 BERKELEY TOWNSHIP, OCEAN COUNTY, :
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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 were filed in accordance with *N.J.A.C. 1:1-18.4*. The Board filed no reply exceptions.

Petitioner's exceptions are presented verbatim below:

***By decision dated June 7, 2007, Administrative Law Judge Jeff S. Masin dismissed the petition as moot as a result of two factors:

1. Judge Masin's Interlocutory Order dated March 29, 2007 adopted by the Commissioner on April 19, 2007, which Interlocutory Order found the Commissioner to be without jurisdiction as to all issues except the issue of post-judgment interest.
2. The remaining issue of post-judgment interest was amicably resolved between the parties.

In order to be certain that there is no waiver of right to appeal this matter to the State Board of Education once a final disposition is entered by the Commissioner, the Petitioner reiterates the exceptions he filed to Judge Masin's March 29, 2007 Interlocutory Order as set forth in Petitioner's letter of April 9, 2007, a copy of which is attached and incorporated by reference herein.

Upon a full and independent review of the record, the Commissioner concurs with the ALJ – for the reasons clearly stated in his decision – that this matter is appropriately dismissed as moot.¹

Accordingly, the recommended decision of the OAL is adopted and the instant Petition of Appeal is hereby dismissed.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: July 23, 2007

Date of Mailing: July 24, 2007

¹ Although the Commissioner cannot speak for the State Board as to what is appealable before that body, it is noted – as recognized by petitioner in his exceptions – that the Commissioner’s Interlocutory Decision on the issue of jurisdiction was issued on April 19, 2007.

² This decision 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.*