

IN THE MATTER OF THE TENURE :  
HEARING OF FRANK KING, : COMMISSIONER OF EDUCATION  
SCHOOL DISTRICT OF THE CITY : DECISION  
OF SALEM, SALEM COUNTY. :

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SYNOPSIS

In March 2007, petitioning school district certified tenure charges of conduct unbecoming against respondent, a tenured teacher, setting forth general allegations of unprofessional conduct. Respondent sought to dismiss the tenure charges against him, asserting that the Board failed to comply with the requirements of *N.J.S.A. 18A:6-11*, *N.J.A.C. 6A:3-5.1* and *N.J.A.C. 6A:3-5.2* prior to sending the charges to the Commissioner. Respondent maintains that the charges – which do not contain a statement of evidence – are procedurally deficient, unspecific, and based on hearsay.

The ALJ found that: the only issue to be determined is whether or not the Board complied with the statutory provisions of *N.J.S.A. 18A:6-11* when it certified tenure charges against petitioner to the Commissioner; the petitioning Board failed to provide respondent with a written statement of evidence as required by law; tenure charges submitted to the Commissioner lack specificity and are so general in nature that respondent is unable to defend against them. The ALJ concluded that the Board has failed to comply with the provisions of *N.J.S.A. 18A:6-11*; accordingly, respondent's motion to dismiss the tenure charges against him must be granted. The ALJ recommended that the tenure charges be dismissed, without prejudice, and that the respondent be reinstated to his tenured teaching position with back pay and emoluments.

The Commissioner concurred with the findings of the ALJ that infirmities in the tenure charges are sufficient to preclude them from proceeding to hearing and adjudication, and adopted the Initial Decision as the final decision in this matter.

<p>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.</p>
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September 18, 2007

OAL DKT. NO. EDU 4489-07  
AGENCY DKT. NO. 117-4/07

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

Upon review, the Commissioner concurs with the Administrative Law Judge that infirmities in the tenure charges filed against respondent by the Board of Education are sufficient to preclude them from proceeding to hearing and adjudication.

Accordingly, for the reasons expressed therein, the Initial Decision of the OAL – dismissing the charges against respondent without prejudice and directing that respondent be reinstated with all salary and emoluments to which he would have been entitled if the charges had not been brought – is adopted as the final decision in this matter.<sup>1</sup>

IT IS SO ORDERED.<sup>2</sup>

COMMISSIONER OF EDUCATION

Date of Decision: September 18, 2007

Date of Mailing: September 18, 2007

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<sup>1</sup> The Initial Decision erroneously states (at 2) that respondent’s Motion to Dismiss in Lieu of Answer was filed *subsequent* to transmittal of the tenure matter to the OAL; in fact, it was filed prior to transmittal pursuant to applicable rule.

<sup>2</sup> 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.*