

OAL DKT. NO. EDU 6405-06
AGENCY DKT. NO. 241-7/06

LINDA BILLI, :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 BOARD OF EDUCATION OF : DECISION
 THE TOWNSHIP OF HOLMDEL, :
 MONMOUTH COUNTY, :
 :
 RESPONDENT. :

The record of this matter - including the hearing transcript and exhibits, the Initial Decision of the Office of Administrative Law (OAL), and the parties' exceptions have been reviewed. For the reasons set forth in the Initial Decision, the Commissioner concurs with the determination of the Administrative Law Judge (ALJ) that petitioner has achieved tenure. The Commissioner further finds that respondent's exceptions to the Initial Decision are without merit, and that the cases cited therein are inapposite to the instant controversy.

It should be noted that there is a discrepancy between petitioner's stated understanding of when her tenure accrued and the ALJ's conclusion about same. Petitioner was terminated three weeks before she would have achieved tenure in 2005. She contended at the OAL hearing that she achieved tenure after she had returned to work in February 2006 and had worked for three weeks. T20, 21.¹ The ALJ concluded that, because a settlement agreement between the parties designated petitioner's one-year-and-three-week absence from work (while grieving her termination) as a "leave of absence," petitioner achieved tenure on February 21, 2005, the three-year anniversary of her starting date as a secretary with the district.

¹ T = Hearing transcript dated January 16, 2007.

The Commissioner need not, for the purpose of disposing of the instant petition, reach the question of which of the above referenced dates marked the establishment of petitioner's tenure. The petition asked that the Commissioner: 1) compel respondent to recognize petitioner's tenure and her right to all benefits related thereto; 2) remove petitioner from the non-tenured staff reappointment list; and 3) ensure that petitioner's pension credit is correctly recorded. By virtue of the settlement agreement designating February 1, 2005 through February 20, 2006 as a leave of absence, there was no break in petitioner's employment in respondent's district – which has extended from February 20, 2002 through at least January 16, 2007, the date of the OAL hearing. Thus, petitioner achieved tenure and is entitled to the relief she requested.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: April 18, 2008

Date of Mailing: April 21, 2008

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.*