

#234-05

IN THE MATTER OF THE TENURE :  
HEARING OF ANATOL KOUS, COMMISSIONER OF EDUCATION  
SCHOOL DISTRICT OF THE : DECISION  
TOWNSHIP OF OLD BRIDGE,  
MIDDLESEX COUNTY. :

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SYNOPSIS

Petitioning Board filed tenure charges of insubordination against respondent, a tenured teacher, and sought his removal from employment in the Old Bridge Public Schools. Neither respondent nor any attorney acting on his behalf filed an answer to the petition following notice pursuant to *N.J.A.C. 6A:3-5.3* and *6A:3-5.4*.

The Commissioner concluded that the allegations – which respondent has chosen not to deny – may be deemed admitted and are sufficient to warrant removal of the respondent from his tenured position. Accordingly, the Commissioner granted summary decision to the Board, ordered respondent dismissed from his tenured position, and transmitted a copy of this decision to the State Board of Examiners for action as that body deems appropriate.

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 17, 2009

AGENCY DKT. NO. 109-6/09

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HEARING OF ANATOL KOUS, COMMISSIONER OF EDUCATION  
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For the Petitioner, Philip E. Stern, Esq.

No appearance by or on behalf of Respondent, Anatol Kous

This matter was opened before the Commissioner of Education on June 1, 2009 through tenure charges of insubordination certified by the Secretary of the Old Bridge Board of Education, together with supporting evidence against Anatol Kous, a tenured teacher in the petitioner's employ. Petitioner provided respondent with written notice of such certification via certified mail sent on or about May 20, 2009.

On June 2, 2009, the Commissioner directed respondent – via both certified and regular mail – to file an answer to the charges. This communication clearly provided notice to respondent that, pursuant to *N.J.A.C. 6A:3-5.3* and *6A:3-5.4*, an individual against whom tenure charges are certified “*shall have 15 days from the day such charges are filed with the Commissioner to file a written response to the charges with the Commissioner,*” and that failure to answer within the prescribed period would – absent granting of an extension for good cause shown – result in the charges being deemed admitted. However, although respondent received the certified mailing on or about June 4, 2009 – as evidenced by his signature on the return receipt (“green

card”) – and the regular mailing was not returned as undeliverable, no reply was received from or on behalf of respondent.

The certified tenure charges and statement of supporting evidence filed by the petitioning Board of Education in this matter indicate that respondent showed evidence of deviation from normal mental health such that the Board placed him on paid administrative leave pending the results of a psychiatric evaluation. However, respondent has been persistently uncooperative in securing such an evaluation to ascertain his ability to return to his teaching position.

Deeming the allegations to be admitted and noting that respondent has failed to respond to the charges certified against him, the Commissioner finds that petitioner’s charge of insubordination has been proven and that it warrants respondent’s dismissal.

Accordingly, summary decision is hereby granted to petitioner, and respondent is dismissed from his tenured position. A copy of this decision shall be forwarded to the State Board of Examiners for action as it deems appropriate.

IT IS SO ORDERED.<sup>1</sup>

COMMISSIONER OF EDUCATION

Date of Decision: July 17, 2009

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<sup>1</sup> This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36*.