

#404-10 (OAL Decision: Not yet available online)

JODI JACKSON, :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 BOARD OF EDUCATION OF THE : DECISION
 CITY OF ELIZABETH, UNION COUNTY, :
 :
 RESPONDENT. :
 _____ :

SYNOPSIS

Petitioner, a non-tenured teacher formerly employed by respondent's school district, appealed the Board's determination not to renew her contract for the 2009-2010 school year. Respondent Board filed a motion to dismiss, based on petitioner's failure to timely file her petition.

The ALJ found, *inter alia*, that: a May 14, 2009 letter from the Board advising petitioner that she would not be reappointed for the 2009-2010 school year marked the beginning of the regulatory 90-day period for the filing of appeals; petitioner's appeal, filed in April 2010, is time barred pursuant to *N.J.A.C.* 6A:3-1.3(i); and the Board's motion to dismiss is more appropriately under the purview of a motion for summary decision. Accordingly, the ALJ ordered that summary decision be granted in favor of the Board, and dismissed petition of appeal as untimely.

Upon a full and independent review, the Commissioner concurs with the Administrative Law Judge – for the reasons clearly presented in her decision – that petitioner's claim is time-barred and presents no compelling case for relaxation of the 90-day rule. The Initial Decision of the OAL is adopted 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>

September 23, 2010

OAL DKT. NO. EDU 5612-10
AGENCY DKT. NO. 72-4/10

JODI JACKSON, :
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 PETITIONER, :
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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 did not file exceptions to the Initial Decision.

Upon such review, the Acting Commissioner concurs with the Administrative Law Judge (ALJ) – for the reasons presented on pages 3-6 of her decision – that this matter is appropriately dismissed as untimely filed.¹

Accordingly, the recommended decision of the OAL is adopted as the final decision in this matter and the instant petition of appeal is hereby dismissed.

IT IS SO ORDERED.²

ACTING COMMISSIONER OF EDUCATION

Date of Decision: September 23, 2010

Date of Mailing: September 23, 2010

¹ The Commissioner is, however, compelled to clarify an apparent misapprehension of the ALJ reflected in her decision. A Motion to Dismiss in Lieu of Answer is a proper responsive pleading, authorized by *N.J.A.C. 6A:3-1.5(g)*, which may be adjudicated at the OAL.

² This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36 (N.J.S.A. 18A:6-9.1)*