

#393-11 (OAL Decision: Not yet available online)

MAUREEN MILLER, :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 BOARD OF EDUCATION OF THE :
 TOWNSHIP OF CLINTON, :
 HUNTERDON COUNTY, :
 :
 RESPONDENT. :
 _____ :

SYNOPSIS

Petitioner appealed the termination of her employment as a secretary in respondent Board's district as the result of a reduction in force (RIF). Petitioner was hired by the district as a secretary on August 13, 2007, and was employed under annual contracts for the 2007-2008, 2008-2009, and 2009-2010 school years. Her annual contract was renewed again for the 2010-2011 school year, but petitioner was notified by letter on July 21, 2010 that her employment would be terminated under the 30 day notice provision in her contract, effective August 26, 2010. She was further informed that her termination was part of a reduction in force (RIF) and that she was not to report to work subsequent to the date of the letter, July 21, 2010. Petitioner contended that she had acquired tenure in her position and had been improperly terminated. The Board filed a motion for summary decision.

The ALJ found, *inter alia*, that: there are no material facts at issue in this matter, and the case is ripe for summary decision; the central issue is whether petitioner acquired tenure as a secretary under *N.J.S.A. 18A:17-2*, considering that the Board passed a resolution stating that petitioner's employment was being terminated effective August 26, 2010, but notified her on July 21, 2010 of the termination and directed her not to report to work after July 21, 2010; petitioner followed the directive not to report to work and did not perform any services for the Board after July 21, 2010; the Board effectively dismissed petitioner on July 21, 2010 and merely paid her through August 26, 2010 in accordance with the 30 day notice provision in her contract; petitioner did not work beyond July 21, 2010 and therefore did not satisfy the requirements of *N.J.S.A. 18A:17-2(b)(1)*. Accordingly, petitioner did not acquire tenure in her position and has no claim to employment based upon tenure rights. The ALJ ordered the petition dismissed.

The Commissioner concurred with the ALJ, and adopted the Initial Decision of the OAL as the final decision in this matter.

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.

September 21, 2011

OAL DKT. NO. EDU 11444-10
AGENCY DKT. NO. 555-9/10

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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 and the Board’s reply thereto – filed in accordance with the requirements of *N.J.A.C. 1:1-18.4* – were fully considered by the Commissioner in reaching his determination herein.

Petitioner’s exceptions essentially recast and reiterate her arguments advanced before the Administrative Law Judge (ALJ) below. Because it is determined that such arguments were fully considered and addressed by the ALJ in his decision, they will not be revisited here.

Upon full review and deliberation, the Commissioner finds and concludes that summary decision is appropriately granted to the Board. For the reasons cogently presented by the ALJ on pages 4-10 of his decision, the Commissioner concurs that petitioner did not acquire tenure as a secretary because she did not satisfy the requirements of *N.J.S.A. 18A:17-2* in that she did not *serve as a secretary in the district for three consecutive calendar years*.

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.*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: September 21, 2011

Date of Mailing: September 21, 2011

* 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*).