

#242-12 (OAL Decision: Not yet available online)

THOMAS BIASI, JR.	:	
	:	
PETITIONER,	:	
	:	
V.	:	COMMISSIONER OF EDUCATION
	:	
BOARD OF EDUCATION OF THE	:	DECISION
MORRIS COUNTY VOCATIONAL	:	
SCHOOL DISTRICT, MORRIS COUNTY,	:	
	:	
RESPONDENT.	:	

SYNOPSIS

Petitioner – a tenured teacher with an instructional certificate in Skilled Trades – Electricity/Electronics – asserted that the respondent Board’s action in terminating his employment violated his tenure rights since the district hired or retained individuals who were non-tenured or lacked seniority over him. Petitioner was employed by the Board from 1993 until 2010 as an Electricity/Electronics Instructor; he received a reduction in force (RIF) letter in May 2010 informing him that his contract would not be renewed due to low enrollment. Respondent Board contended that it had considered the possibility of transferring petitioner to the position of Electrical Trades Instructor, but determined that he was not authorized to teach in that position – which falls under Construction Trades and requires a certificate in Electrical trades which petitioner does not possess.

The ALJ found, *inter alia*, that: petitioner was tenured in respondent’s district, and his last position was that of Networking Instructor; petitioner’s endorsement of Skilled Trades – Electricity/Electronics is no longer issued by the Department of Education, but the subject expertise and skills previously included in this endorsement are now subsumed in the CIP Program Category #47: Mechanic and Repair Technologies/Technician cluster, whereas the Electrical Trades Instructor falls under the Construction Trades cluster, requires a certificate in Electrical trades and experience as an electrical contractor, electrical wiring contractor, or electrician; petitioner does not possess experience as an electrical contractor; petitioner’s background shows that his industry and teaching experience is in electronics rather than electrical contracting; and petitioner lacked the proper endorsement to teach the vacant electrical trades course. Accordingly, the ALJ concluded that petitioner failed to establish that his seniority rights were violated because he was not qualified to teach the electrical trades course.

Upon independent review, the Commissioner concurred with the ALJ’s findings and adopted the Initial Decision of the OAL as the final decision in this matter. The petition was dismissed.

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.

June 14, 2012

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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 provisions of *N.J.A.C. 1:1-18.4* – were fully considered by the Commissioner in making his determination herein.

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

Upon full consideration, the Commissioner concurs with the ALJ – for the reasons comprehensively detailed in her decision – that the petitioner has failed to sustain his burden of establishing that, subsequent to his being rified from his Networking Instructor position on June 30, 2010 – the District violated his tenure and seniority rights as a consequence of its refusal to employ him to teach the vacant electrical trades’ course, as petitioner lacked the endorsement necessary to qualify him to teach such course.

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: June 14, 2012

Date of Mailing: June 14, 2012

* 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).