

#416-12 (OAL Decision: Not yet available online)

TERESA STALLONE, :  
PETITIONER, : COMMISSIONER OF EDUCATION  
V. : DECISION  
BOARD OF EDUCATION OF THE :  
CAMDEN COUNTY TECHNICAL :  
SCHOOL DISTRICT, :  
RESPONDENT. :

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SYNOPSIS

Petitioner, a tenured principal in respondent’s district, contended that her compensation was reduced in violation of her tenure rights when her position as principal of adult education at the district’s Camden campus was eliminated – along with the entire adult education program – for reasons of economy and efficiency, in July 2011. Petitioner’s full-time position was principal of the district’s Gloucester campus; she had simultaneously held the part-time position of principal of adult education in Camden, which was an evening school. The Board asserted that petitioner had served in two separate positions in the school district, and that once her position as principal in Camden was eliminated for reasons of economy, the district properly reduced her salary by the amount she would have been paid for her service in that position.

The ALJ found, *inter alia*, that: the record shows that petitioner held two separate positions in the district, each of which were listed separately in the initial approval of the positions; the two positions had separate job descriptions and involved separate schools within the district; the fact that the district’s payroll system generated one paycheck for petitioner does not negate the underlying nature of the positions she occupied, and the fact that she received a set amount of salary for each position; the district’s action in this matter eliminated an entire school and, as a consequence, petitioner’s second job – for which she had been paid \$10,000 on an annual basis; when that position was eliminated, petitioner no longer had a right to that part of her compensation. Accordingly, the ALJ concluded that the district did not reduce petitioner’s salary in violation of her tenure rights and dismissed the petition.

Upon a thorough and independent review of the record, the Commissioner concurred with the ALJ’s findings and conclusions, and adopted the Initial Decision as the final decision in this case. 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.

October 25, 2012

TERESA STALLONE, :  
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The petitioner in this controversy contends that her compensation was reduced in violation of her tenure rights. After review of the record, the Initial Decision of the Office of Administrative Law and the parties' exceptions, the Commissioner is constrained to disagree with petitioner.

As the Administrative Law Judge pointed out in the Initial Decision, petitioner served in two separate positions in respondent's district – each of which had separate job descriptions and separate salaries. The record shows that, as of 2009, one of the positions was principal of adult education at respondent's evening school, with an annual salary of \$10,000. (*See*, Exhibit I to the Statement of Facts in respondent's motion for summary disposition) The other position was principal of the regular day school on the Gloucester Township campus of respondent's district, at an annual salary of \$121,500. (*Ibid.*) The two separate job descriptions reflected, *inter alia*, the differences in the size and nature of the programs and student bodies associated with the respective divisions of the Camden County Technical School District in

which petitioner served. (See, Exhibits K and L to the Statement of Facts in respondent's motion for summary disposition)

In 2011, respondent eliminated the adult education program and the positions of the staff that served same. (See, Exhibit N to the Statement of Facts in respondent's motion for summary disposition) On September 9, 2011, respondent's Business Administrator sent a notice to petitioner that respondent would cease paying her the \$10,000 that had been her compensation for administering the eliminated program. (See, Exhibits M and O to the Statement of Facts in respondent's motion for summary disposition) It is this action that petitioner challenges.

The Commissioner has already determined, in *Ciamillo v. Board of Education of the Borough of Ridgefield*, Commissioner Decision No. 312-05, decided August 31, 2005, affirmed, State Board of Education, January 4, 2006, that the elimination – for economic reasons – of one of two positions held by an employee may properly result in the elimination of the compensation that was designated therefor. However, petitioner posits that the instant case is distinguishable from *Ciamillo* because the petitioner in *Ciamillo* had two jobs requiring separate certifications/endorsements, whereas petitioner Stallone's two jobs were both positions requiring a principal endorsement.

More specifically, petitioner seeks to persuade the Commissioner that her two jobs in respondent's district are really one position. Pointing to *N.J.S.A. 18A:28-5*, which allows an employee to credit towards tenure as a principal any and all service as a principal that an employee has completed within a district over a three plus year period, she argues that her service in the two principal jobs in respondent's district should also be regarded collectively for compensation purposes. Acceptance of her assertion that her two jobs were actually one position then, according to petitioner, implicates the prohibition in *N.J.S.A. 18A:6-10* against reducing a

tenured employee's salary without a showing of inefficiency, incapacity, unbecoming conduct or other just cause.

Petitioner's arguments are unavailing. The rules for attaining tenure are separate and distinct from the rules which govern reductions in force (RIF). Petitioner's job as administrator of the adult school – which job preceded her position as principal of the regular day school on the Gloucester campus of respondent's district and encompassed a set of responsibilities significantly different from those in petitioner's Gloucester principalship – was eliminated in 2011. The salary for the eliminated position – which salary had been set forth in the minutes of respondent's May 2009 Board meeting – was accordingly discontinued. The elimination of the adult school job did not implicate the Gloucester job in any way. And allowing petitioner's total compensation to remain the same would have reaped the anomalous result of cutting a position for cost saving while still paying for it.

In summary, the discontinuance of the salary that petitioner had been paid for her position administering respondent's adult school was a proper action in the wake of the elimination of the adult school program. The Initial Decision is accordingly adopted as the final decision in this case and the petition is dismissed.

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

COMMISSIONER OF EDUCATION

Date of Decision: October 25, 2012

Date of Mailing: October 26, 2012

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<sup>1</sup> This decision may be appealed to the Superior Court, Appellate Division, pursuant to *P.L. 2008, c. 36* (*N.J.S.A. 18A:6-9.1*).