

#418-12 (OAL Decision: Not yet available online)

STUART B. WEISS, :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 BOARD OF EDUCATION OF THE ESSEX : DECISION
 COUNTY VOCATIONAL SCHOOL DISTRICT,
 ESSEX COUNTY, :
 :
 RESPONDENT. :

SYNOPSIS

In 2003, the petitioner filed an appeal which asserted that the Board failed to pay full salary without loss of sick time for an injury sustained in the course of his employment. The matter was placed on the inactive list pending resolution of a related Worker's Compensation case. On April 24, 2012, petitioner was advised that the sick leave matter had been reactivated. A telephone conference was scheduled for July 23, 2012 for the purpose of discussing a settlement between the parties. Petitioner failed to make himself available for this conference, failed to reply to respondent's subsequent communication laying out settlement terms, and failed to respond to the ALJ's August 13, 2012 letter which directed him to advise whether he was accepting or rejecting the Board's settlement offer. Accordingly, the ALJ concluded that petitioner had abandoned the case, and returned the matter to the Department of Education.

The Commissioner concurred with the ALJ's findings, and determined that the case must be dismissed for failure to prosecute. Accordingly, the recommended decision of the OAL was adopted and the matter was dismissed.

<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>

October 26, 2012

OAL DKT. NO. EDU 9656-03
AGENCY DKT. NO. 168-5/03

STUART B. WEISS, :
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 RESPONDENT. :

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 Commissioner concurs with the Administrative Law Judge (ALJ) that – because petitioner failed to make himself available for the ALJ’s scheduled July 23, 2012 telephone conference with the parties and additionally failed to respond, either in writing or orally, to the ALJ’s August 13, 2012 letter directing him to advise whether he was accepting or rejecting the Board’s settlement offer in this matter – this case is appropriately dismissed for failure to prosecute.

Accordingly, the recommended decision of the OAL is adopted and the instant petition of appeal is hereby dismissed.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: October 26, 2012

Date of Mailing: November 1, 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).