

#132-13 (OAL Decision: Not yet available online)

JASON JONES, :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF TRUSTEES OF THE : DECISION
BARACK OBAMA GREEN CHARTER :
SCHOOL, UNION COUNTY :
RESPONDENT. :

SYNOPSIS

Petitioner challenged the Board's termination of his employment as a non-tenured school business administrator in June 2011, contending that the action: was arbitrary, capricious and unreasonable; violated *N.J.A.C.* 6A:9-12.7; and violated the provisions of the Standard Residency Agreement between the petitioner and the Board, which was signed in February 2011. Petitioner sought reinstatement to his former position. The Board asserted that the petition was untimely filed, and that petitioner was properly terminated and not entitled to any relief. Respondent filed a motion for summary decision.

The ALJ found, *inter alia*, that: there are no material facts in dispute, and the matter is ripe for summary decision; the respondent's contention that the petition was late filed is without merit; petitioner was a non-tenured employee who was not recommended for renewal by the school chief administrator; boards of education have broad discretion in deciding whether a non-tenured staff member should be renewed; petitioner's non-renewal cannot be considered arbitrary, capricious and unreasonable; the Standard Residency Agreement is a contract between the parties, and does not fall under the purview of school law; the requirements related to certificates for school business administrators – which are set forth in *N.J.A.C.* 6A:9-12.7 – place obligations upon the candidate seeking a certificate, and on the residency program mentors, but do not place any specific obligation on the school or district; accordingly, petitioner's termination did not violate the regulation. The ALJ concluded that, to the extent that the instant dispute relates to a possible contractual violation related to the Standard Residency Agreement, petitioner should seek relief in another forum, and granted the Board's motion for summary decision and dismissed the petition.

The Commissioner concurred with the ALJ findings and conclusions, and adopted the Initial Decision 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.

April 11, 2013

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed, as have the exceptions filed pursuant to *N.J.A.C.* 1:1-18.4 by the petitioner, Jason Jones, and the Board of Trustee’s (Board) reply thereto.¹

In his exceptions, the petitioner contends that the underlying issue in this matter is whether the Board could terminate his employment as a school business administrator at will prior to the petitioner fulfilling the two-year primary experience requirements of the residency contained in *N.J.A.C.* 6A:9-12.7(c)(2). The petitioner maintains that the Commissioner has jurisdiction under *N.J.S.A.* 18A:6-9 to decide this controversy and, moreover, that a determination of the term of the Department of Education’s Standard Residency Agreement requires the Commissioner to interpret the parties’ obligations under *N.J.A.C.* 6A:9-12.7.

In reply, the Board maintains that the Initial Decision should be adopted, asserting that the Administrative Law Judge (ALJ) properly addressed each of the petitioner’s three theories in support of the request for relief. The Board contends that the ALJ did in fact interpret

¹ Following the receipt of the Board’s reply exceptions on March 18, 2013, petitioner submitted a letter asking the Commissioner to disregard the Board’s reply exceptions, arguing that all exceptions were due by March 13, 2013. Pursuant to *N.J.A.C.* 1:1-18.4(d), within five days from receipt of exceptions, any party may file a reply thereto. The Board’s reply exceptions were timely filed and as such were considered by the Commissioner.

the parties' obligations under *N.J.A.C.* 6A:9-12.7. The Board stresses the ALJ correctly found that the regulation places obligations on the candidate for a certification and on the residency program including the mentors, but it does not place any specific obligations on the school district. As a result, the ALJ determined that the non-renewal of the petitioner's employment did not violate *N.J.A.C.* 6A:9-12.7. Additionally, the Board maintains that the ALJ properly found that any dispute related to a possible contractual violation in connection with the Standard Residency Agreement is outside the Commissioner's jurisdiction.

Upon a comprehensive review of the record in this matter, the Commissioner concurs with the ALJ – for the reasons stated in the Initial Decision – that the Board's decision to non-renew the petitioner was not arbitrary capricious or unreasonable. The Commissioner is also in accord with the ALJ's determination that to the extent the petitioner is asserting a contractual dispute, that issue it is not within the Commissioner's jurisdiction under *N.J.S.A.* 18A:6-9.

Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter and the petition is hereby dismissed.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: April 11, 2013

Date of Mailing: April 11, 2013

² Pursuant to *P.L.* 2008, c. 36 (*N.J.S.A.* 18A:6-9.1), Commissioner decisions are appealable to the Superior Court, Appellate Division.