

RICKENYA TANNER, :
PETITIONER, :
v. : COMMISSIONER OF EDUCATION
BOARD OF TRUSTEES OF THE : DECISION
COMMUNITY CHARTER SCHOOL OF
PATERSON, PASSAIC COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioner – formerly employed for the 2014-2015 school year by the respondent Community Charter School of Paterson (CCSP) – sought reinstatement of her employment as a full-time instructional assistant. Petitioner claimed that, because she did not receive written notice by May 15, 2015 of CCSP’s determination to non-renew her employment for the following school year, she was automatically entitled to continued employment for the 2015-2016 school pursuant to *N.J.S.A. 18A:27-10.2*. CCSP contended that petitioner was not so entitled, and filed a motion to dismiss in lieu of an answer.

The ALJ found, *inter alia*, that: petitioner was employed by the respondent during the 2014-2015 school year as an instructional assistant – a paraprofessional as defined in *N.J.S.A. 18A:27-10.2(a)*; petitioner relies solely upon *N.J.S.A. 18A:27-10.2* in support of her claimed right to contract renewal; an employee’s right to receive notice by May 15 – as prescribed in *N.J.S.A. 18A:27-10.2* – does not equate with a right to contract renewal for the succeeding year; although a corollary regulation governing non-tenured teaching staff does provide that when a board fails to give non-tenured teaching staff either a contract offer for the next year or proper notice that such employment will not be offered, the board shall be deemed to have offered employment for the following school year; however, no such parallel statute exists for paraprofessionals; and, even if petitioner had pled an implied contract claim – which she did not – that common-law grounded claim does not invoke the Commissioner’s jurisdiction, as it does not involve a controversy arising under the school laws. The ALJ concluded that the school laws do not grant an automatic renewal of employment to a paraprofessional based on a board’s violation of *N.J.S.A. 18A:27-10.2*; therefore, the petitioner has advanced no cause of action for renewal of her employment for the 2015-2016 school year, nor has she stated a claim upon which relief can be granted. Accordingly, the ALJ determined that dismissal of the petition is warranted.

Upon independent review, the Commissioner concurred with the findings and conclusions of the ALJ, for the reasons stated in the Initial Decision. Accordingly, the Initial Decision of the OAL was adopted as the final decision in this matter, and 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.

May 6, 2016

OAL DKT. NO. EDU 14408-15
AGENCY DKT. NO. 203-7/15

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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 and the Board’s reply thereto.

Petitioner’s exceptions substantially reiterate the substance of her submissions at the OAL. Because the Administrative Law Judge thoroughly addressed those arguments in the Initial Decision, further discussion herein is unnecessary.

Upon review, the Commissioner concurs with the ALJ – for the reasons thoroughly set forth in the Initial Decision – that *N.J.S.A. 18A:27-10.2* does not entitle paraprofessionals to automatic reappointment based on a Board’s failure to provide timely notice of non-renewal. As such, petitioner has failed to state a cause of action by which renewal of her employment for the 2015-2016 school year can be granted. Additionally, the Commissioner agrees with the ALJ that petitioner did not assert an implied contract claim, and even if she did, such a claim would not fall within the Commissioner’s jurisdiction pursuant to *N.J.S.A. 18A:6-9*.

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

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: May 6, 2016

Date of Mailing: May 6, 2016

* 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*).