

IN THE MATTER OF THE TENURE HEARING :
OF DEMARIS HERNANDEZ, SCHOOL DISTRICT OF : COMMISSIONER OF EDUCATION
THE CITY OF PLEASANTVILLE, ATLANTIC COUNTY : DECISION

For the Petitioner, Benjamin B. Brenner, Esq.

No appearance by or on behalf of Respondent, Demaris Hernandez

This matter was opened before the Commissioner of Education on June 1, 2018, through tenure charges of abandonment, chronic and excessive absenteeism, conduct unbecoming, and incapacity, certified by Dr. Clarence Alston, Superintendent of the School District of the City of Pleasantville, together with a statement of supporting evidence against respondent, Demaris Hernandez, a tenured Secretary in petitioner’s employ. Petitioner provided respondent with written notice of such certification at her last known address – via certified mail – on May 25, 2018.

On June 1, 2018, the Commissioner directed respondent – via both certified and regular mail – to file an answer to the charges. This communication provided notice to respondent that, pursuant to *N.J.A.C. 6A:3-5.3 and 6A:3-5.4*, an individual against whom tenure charges are certified “*shall have 15 days from the date such charges are filed with the Commissioner to file a written response to the charges with the Commissioner,*” and that failure to answer within the prescribed period would – absent granting of an extension for good cause shown – result in the charges being deemed admitted. No reply to the tenure charges was received from, or on behalf of, respondent.

The certified tenure charges and statement of supporting evidence filed by the petitioner in this matter indicates that respondent has engaged in conduct that is unbecoming of a support staff member, including excessive absenteeism, failing to follow basic District procedures and protocols, causing disruption in the work environment, and abandonment of her position. Respondent was out of the office for

28.5 days during the 2013-2014 school year, 40.0 days during the 2014-2015 school year, 72.0 days during the 2015-2016 school year, 41.5 days during the 2016-2017 school year, and 47.5 days during the 2017-2018 school year. The respondent has failed to report to work since December 18, 2017, and – although respondent sent in letters from various medical professionals since that date, requesting her absences be excused – respondent has not attempted to contact the District in any other way to discuss her absence, despite the District’s repeated attempts to contact her. On February 21, 2018, the District informed respondent that she does not qualify for family medical leave due to the work hour requirement, and that failure to return to work or contact the District by March 1, 2018 may result in action taken against her by the District. Respondent has not responded to the District’s correspondence and has also failed to provide the District with any indication as to when she would be able to return to work – and whether she would have any restrictions or require any accommodations once she did – despite several attempts by the District to obtain this information. The evidence reflects that respondent’s conduct resulted in disruption in the work environment.

Deeming the allegations to be admitted – and noting that respondent has failed to respond to the charges certified against her – the Commissioner finds that petitioner’s charges of conduct unbecoming have been proven, and warrant the respondent’s dismissal from employment.

Accordingly, summary decision is hereby granted to the petitioner, and the respondent is dismissed from her tenured position with the District.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: July 6, 2018

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* 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)