

58-00

GEORGE MONTGOMERY, :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
CITY OF IRVINGTON, ESSEX :
COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioning teaching staff member alleged that the Board wrongfully withheld his annual increment in violation of *N.J.S.A. 18A:6-10* and *N.J.S.A. 18A:29-14*.

The ALJ granted summary decision to the Board and dismissed the appeal with prejudice, determining that the appeal was never properly before the Commissioner since the Public Employment Relations Commission had asserted its jurisdiction over this matter from the outset through the arbitrator's ruling that petitioner's increment was withheld for primarily disciplinary reasons.

Finding petitioner's exceptions without merit, the Commissioner affirmed the Initial Decision for the reasons stated therein. Summary decision was granted to the Board and the Petition of Appeal was dismissed.

February 15, 2000

OAL DKT. NO. EDU 12289-95
AGENCY DKT. NO. 419-10/95

GEORGE MONTGOMERY, :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 BOARD OF EDUCATION OF THE : DECISION
 CITY OF IRVINGTON, ESSEX :
 COUNTY, :
 :
 RESPONDENT. :

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. Petitioner's exceptions were timely filed pursuant to *N.J.A.C.* 1:1-18.4 and were fully considered by the Commissioner in reaching his determination herein.

Having conducted his own independent and thorough review of the entire record in this matter, the Commissioner, finding petitioner's exceptions without merit, affirms the Initial Decision of the OAL determining that, under the circumstances existing here, the Commissioner is without subject matter jurisdiction over the within controversy.

Accordingly, the Initial Decision of the OAL is affirmed for the reasons stated therein. Summary decision is granted to the Board and the within Petition of Appeal is hereby dismissed.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: February 15, 2000

Date of Mailing: _____

* This decision, as the Commissioner's final determination, may be appealed to the State Board of Education pursuant to *N.J.S.A.* 18A:6-27 *et seq.* and *N.J.A.C.* 6:2-1.1 *et seq.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.