

103-02

GEORGE HEMIGHAUS, :
 :
 PETITIONER, :
 :
 V. :
 : COMMISSIONER OF EDUCATION
 BOARD OF EDUCATION OF THE CITY :
 OF BRIDGETON, CUMBERLAND : DECISION
 COUNTY, :
 :
 RESPONDENT. :

SYNOPSIS

Petitioner, a janitor employed by the Board, challenged the imposition of a five-day suspension without pay as a disciplinary measure, alleging that it was a reduction in salary in violation of his tenure rights.

The ALJ concluded that petitioner had not acquired tenure and, therefore, appeal of his unpaid suspension was outside the Commissioner's jurisdiction. The ALJ additionally noted, however, that if petitioner *were* to have been found tenured as claimed, his suspension without pay would have been a minor disciplinary action lawfully imposed by the Board. Accordingly, the ALJ recommended dismissal of the petition.

The Commissioner affirmed the ALJ's determination and dismissed the petition.

<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>

March 14, 2002

OAL DKT. NO. EDU 2397-01
AGENCY DKT. NO. 54-2/01

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The record of this matter and the Initial Decision of the Office of Administrative Law have been reviewed. The parties did not file exceptions.

Upon careful and independent review of the record in this matter, the Commissioner concurs with the ALJ that petitioner did not acquire tenure and, therefore, the appeal of his unpaid suspension falls outside the jurisdiction of the Commissioner. However, as the ALJ noted, even assuming, *arguendo*, that petitioner had been found tenured, his suspension without pay was a minor disciplinary action lawfully imposed by the Board.

Accordingly, the Commissioner affirms the Initial Decision for the reasons expressed therein.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: 3/14/02

Date of Mailing: 3/14/02

* 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.* 6A:4-1.1 *et seq.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.