

#256-05 (No OAL Decision)

IN THE MATTER OF THE TENURE :  
HEARING OF WILLIAM A. BROWN, : COMMISSIONER OF EDUCATION  
BERGEN COUNTY SPECIAL SERVICES :  
SCHOOL DISTRICT. : DECISION  
\_\_\_\_\_ :

SYNOPSIS

The Board certified tenure charges of abandonment of position against William A. Brown, a tenured custodian in the Bergen County Special Services School District, stemming from his repeated, abusive, unexplained and unexcused absences from employment beginning in the 2002-2003 school year and continuing through the 2004-2005 school year.

Respondent was directed to file an Answer to the charges against him, and advised that failure to answer within 15 days from the date of filing of such charges, where no extension has been applied for and granted, would result in the charges being deemed admitted pursuant to *N.J.A.C. 6A:5-3(c)*. No reply was filed.

The Commissioner reviewed the tenure charges certified against the respondent, and the evidence in support of those charges. Noting that the respondent has chosen not to deny the allegations against him and, therefore, deeming the within charges to be admitted, the Commissioner concludes that the Board has demonstrated that respondent is guilty of abandonment of position, warranting termination from his position. Summary judgment is granted to the District, and William A. Brown is dismissed from his tenured position as custodian as of the date of this order.

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.

AGENCY DKT NO. 144-6/05

IN THE MATTER OF THE TENURE :  
HEARING OF WILLIAM A. BROWN, : COMMISSIONER OF EDUCATION  
BERGEN COUNTY SPECIAL SERVICES : DECISION  
SCHOOL DISTRICT. :  
\_\_\_\_\_ :

For the Board, William C. Soukas, Esq. (Nowell Amoroso Klein Bierman, Attorneys)

William A. Brown, *Pro se*

This matter was opened before the Commissioner of Education on June 8, 2005, through the certification of tenure charges of abandonment of position against William A. Brown, a tenured custodian, by the Board of Education of the Bergen County Special Services School District.

By notice dated June 9, 2005, the Commissioner directed respondent, via both certified and regular mail, to file an Answer to the tenure charges against him.\* This communication from the Bureau of Controversies and Disputes clearly provided respondent notice 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, and that failure to answer within the prescribed period, where no extension has been applied for and granted, will result in the charges being deemed admitted by the charged employee. Because no reply has been received from respondent, or any attorney on his behalf, in response to the District's charges, each count of the charges against respondent is deemed to be admitted. *N.J.A.C.* 6A:5-3(c).

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\* The envelope mailed certified has been returned by the post office marked "unclaimed." The envelope mailed regular first class mail has not been returned and is presumed delivered.

The Commissioner has reviewed the tenure charges certified against respondent by the Board, and the evidence in support of those charges. They allege:

1. Repeated, abusive, unexplained and unexcused absences from employment beginning in the 2002-2003 school year and continuing through the 2003-2004 and 2004-2005 school years;
2. Failure to provide a doctor's clearance, as requested by the District on or about October 4, 2005 [sic], for the purpose of establishing respondent's ability to return to work;
3. Failure to advise the District on or after October 21, 2004 whether he intended to return to employment;
4. Failure to advise the District on or after January 10, 2005 whether he intended to return to employment; and
5. Failure of respondent to communicate with the District or respond to the District's correspondence and inquiries about his employment status or intentions since approximately January 2005.

Noting that respondent has chosen not to deny the allegations against him and, therefore, deeming the within charges to be admitted, the Commissioner concludes that the Board has demonstrated that respondent is guilty of abandonment of position, warranting termination from his position.<sup>1</sup>

IT IS THEREFORE ORDERED this \_\_\_\_\_ day of July 2005 that summary decision shall be granted to the District, and William A. Brown shall be dismissed from his tenured position as a custodian in the District's employ as of the date of this order.<sup>2</sup>

COMMISSIONER OF EDUCATION

Date of Decision: July 20, 2005

Date of Mailing: July 20, 2005

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<sup>1</sup> Pursuant to *N.J.S.A.* 18A:17-3, public school janitors, or custodians, shall, unless appointed for a fixed term, hold office or employment under tenure of good behavior and efficiency and shall not be dismissed or suspended or reduced in compensation, \*\*\*except for neglect, misbehavior or other offense.

<sup>2</sup> This decision 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.*