

RaSHAWN ADAMS, :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE CITY OF : DECISION
TRENTON, MERCER COUNTY, :
RESPONDENT. :
_____ :

SYNOPSIS

Petitioner – a former principal in respondent’s district – contests the Board’s decision to non-renew his annual contract at the end of the 2006-2007 school year. The Board filed a motion for summary decision, asserting their right to non-renew the petitioner, who had not attained tenure in the district.

The ALJ found, *inter alia*, that: the facts in this matter are essentially undisputed and summary decision is appropriate; the Board has the final authority to determine whether to renew the contract of a non-tenured employee; the burden of proof is upon the petitioner to establish that the Board acted in an arbitrary and capricious manner; and the record cannot support such a finding. The ALJ concluded that the Board did not act arbitrarily in non-renewing petitioner’s contract, granted the Board’s motion for summary decision, and dismissed the appeal.

Upon a thorough and independent review of the record, the Commissioner concurred with the ALJ that respondent Board properly exercised its right to non-renew petitioner’s employment, rejected the petitioner’s exceptions, and adopted the Initial Decision with supplementation.

<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>

August 13, 2008

OAL DKT. NO. EDU 8237-07
AGENCY DKT. NO. 217-8/07

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 PETITIONER, :
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 V. : COMMISSIONER OF EDUCATION
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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 in accordance with the prescriptions of *N.J.A.C. 1:1-18.4*. The Board filed no reply exceptions.

On exception petitioner asserts that there were material facts in dispute with respect to the reasons given by the Board for his non-renewal which preclude the grant of summary decision. He, therefore, urges that the Administrative Law Judge’s (ALJ) decision be reversed and this matter proceed to hearing. (Petitioner’s Exceptions at 2-5)

Upon a thorough review of the record, the Commissioner concurs with the ALJ that summary decision is appropriately granted to the Board.

It is by now axiomatic that a board has virtually unlimited discretion in hiring or renewing non-tenured teaching staff members. *Dore v. Bedminster Twp. Bd. of Ed.*, 185 *N.J. Super.* 447 (App. Div. 1982). “[A]bsent constitutional constraints or legislation affecting the tenure rights of [teaching staff members], local boards of education have an almost complete right to terminate the services of a [teaching staff member] who has no tenure and is

regarded as undesirable by the local board.” (*Id.* at 456) As such, a non-tenured teaching staff member challenging a board’s decision to terminate his employment on the grounds that the reasons given by the board are not supported by the facts is entitled to litigate that question only if the facts he alleges, if true, would constitute a violation of constitutional or legislatively-conferred rights. *Guerriero v. Board of Education of the Borough of Glen Rock*, decided by the State Board, February 5, 1986, *aff’d* Docket #A-3316-85T6 (App. Div. 1986) *Also see Lydia Anderson v. State-operated School District of the City of Newark*, decided by the State Board February 7, 2001; *John Kufel, Jr. v. Board of Education of the Union County Vocational-Technical School District*, 96 N.J.A.R. 2d (EDU) 446; *Randy Pratt v. Board of Education of the Borough of Butler, Morris County*, decided by the State Board January 6, 1999. The instant non-tenured petitioner has made no such claim. Therefore, even accepting petitioner’s allegations as true, the Board is entitled to summary decision as a matter of law.

Accordingly, the Initial Decision of the OAL, as supplemented above, is adopted and the instant petition of appeal is hereby dismissed.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: August 13, 2008

Date of Mailing: August 13, 2008

* This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36*.