

#304-08

IN THE MATTER OF THE TENURE :  
HEARING OF LAURA LA CROSS, : COMMISSIONER OF EDUCATION  
SCHOOL DISTRICT OF THE CITY OF : DECISION  
TRENTON, MERCER COUNTY. :  
\_\_\_\_\_ :

SYNOPSIS

Petitioning Board filed tenure charges of incapacity against respondent, a tenured teacher, and sought her removal from employment in the Trenton Public Schools. Neither respondent nor any attorney acting on her behalf filed an answer to the charges following notice pursuant to *N.J.A.C. 6A:3-5.3* and *6A:3-5.4*.

The Commissioner concluded that the allegations – which respondent has chosen not to deny – may be deemed admitted and are sufficient to warrant removal of the respondent from her tenured position. Accordingly, the Commissioner granted summary decision to the Board, ordered respondent dismissed from her tenured position, and transmitted a copy of this decision to the State Board of Examiners for action as that body deems appropriate. The Commissioner additionally encouraged the Board to consider, if appropriate, filing an application for ordinary disability retirement on respondent’s behalf pursuant to *N.J.S.A. 18A:66-39*.

<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>
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July 14, 2008

AGENCY DKT. NO. 174-6/08

IN THE MATTER OF THE TENURE :  
HEARING OF LAURA LA CROSS, : COMMISSIONER OF EDUCATION  
SCHOOL DISTRICT OF THE CITY OF : DECISION  
TRENTON, MERCER COUNTY. :  
\_\_\_\_\_ :

For the Board, Harold W. George, Esq.

No appearance by or on behalf of Respondent, Laura La Cross

This matter was opened before the Commissioner of Education on June 16, 2008, through certification of tenure charges of incapacity by the Board of Education of the City of Trenton (Board) against Laura La Cross (respondent), a tenured teacher in the Board's employ. Following its review of the charges as filed together with the supporting evidence and respondent's reply, the Board had resolved on June 9, 2008 to certify these charges to the Commissioner and had provided respondent with written notice of such certification via regular and certified mail sent on June 13, 2008.<sup>1</sup>

Upon receipt of the certified charges on June 16, 2008, the Department directed respondent – via both certified and regular mail, with respondent's attorney notified via regular mail – to file an answer to the charges. This communication clearly 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 day such charges are filed with the Commissioner to file a written response to the charges*

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<sup>1</sup> On the same date, notice was sent by regular mail to respondent's attorney.

*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. However, although respondent received the certified mailing on June 18, 2008 – as evidenced by her signature on the return receipt (“green card”) – and the regular mailing was not returned as undeliverable, no reply was received from or on behalf of respondent.

The certified tenure charges and statement of supporting evidence filed by the Board in this matter indicate that: 1) respondent was absent for 161 days during the 2005-06 school year, resulting in withholding of her increment for 2006-07; 2) although cleared for duty in the 2007-08 school year by her own physician, shortly after the beginning of the year respondent was involved in a “situation” at Trenton High School, and – on October 16, 2007 – was placed on paid leave pending the Board’s investigation of the matter and the results of a Board-ordered medical examination;<sup>2</sup> and 3) upon examination of respondent on November 15, 2007 by a physician acting on the Board’s behalf, respondent was diagnosed with a medical condition, the behavioral manifestations of which rendered her unfit for duty.

Deeming these allegations to be admitted and noting that respondent has failed to respond to the charges certified against her, the Commissioner finds that the Board’s charges have been proven and that they warrant respondent’s dismissal from tenured employment.

Accordingly, summary decision is hereby granted to the Board, and respondent is dismissed from her tenured teaching staff position as of the filing date of

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<sup>2</sup> This leave continued until November 30, 2007.

this decision. The Board is encouraged to consider, if appropriate, filing an application for ordinary disability retirement on respondent's behalf pursuant to *N.J.S.A. 18A:66-39*, and a copy of this decision shall be forwarded to the State Board of Examiners for review and action as it deems appropriate.

IT IS SO ORDERED.<sup>3</sup>

COMMISSIONER OF EDUCATION

Date of Decision: July 14, 2008

Date of Mailing: July 14, 2008

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<sup>3</sup> This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36*.