

#368-10 (OAL Decision: Not yet available online)

BETSY CAREY, :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
TOWNSHIP OF SPRINGFIELD,
UNION COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioner's position as a tenured teacher of consumer science was eliminated in a reduction in force (RIF), effective in June 2007. She alleged that the appointment of a non-tenured individual as a teacher of culinary arts for the 2009-2010 school year violated her tenure and seniority rights, as petitioner claimed that she had taught essentially the same material in her cooking classes that is now included in the culinary arts curriculum. After her position ended in June 2007, petitioner collected unemployment compensation until obtaining employment in another district in February 2008. She went on to retire from teaching in March 2008. The Board maintained that: petitioner's voluntary retirement in 2008 ended any recall rights she may have had; and the new culinary arts program – which was implemented during the 2009-2010 school year – is substantially different from the family and consumer science program, as it is a vocational program geared to prepare students for careers in food services production and requires instructors to hold culinary arts teacher certification. Consequently, the Board contends that petitioner was not qualified to teach culinary arts and suffered no violation of her tenure rights.

The ALJ found that: petitioner's recall rights to any position with the Board expired with her retirement from teaching in March 2008, and the culinary arts teaching position did not become available for more than a year later; petitioner lacked the certifications and practical restaurant experience necessary to teach in the new culinary arts program; and petitioner presented no evidence to support her contention that the Board hired or retained a non-tenured teacher to teach business, computer or technology education courses in violation of her tenure, seniority and recall rights. The ALJ denied petitioner's appeal and dismissed the case.

Upon a thorough and independent review of the record, the Commissioner adopted the Initial Decision of the OAL as the final decision in this matter.

<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>

September 8, 2010

OAL DKT. NO. EDU 11994-09
AGENCY DKT. NO. 222-9/09

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 PETITIONER, :
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Upon review of the record and Initial Decision in this matter, the Commissioner adopts the Initial Decision as the final decision – for the reasons set forth therein.¹ Accordingly, the petition is dismissed.

IT IS SO ORDERED.²

ACTING COMMISSIONER OF EDUCATION

Date of Decision: September 8, 2010

Date of Mailing: September 8, 2010

¹ Neither party filed exceptions to the Initial Decision.

² This decision may be appealed to the Superior Court, Appellate Division, pursuant to *P.L. 2008, c. 36*.