

#269-12 (OAL Decision: Not yet available online)

IRANDOKHT TOORZANI,	:	
	:	
PETITIONER,	:	
V.	:	COMMISSIONER OF EDUCATION
	:	
BOARD OF EDUCATION OF THE	:	DECISION
BOROUGH OF ELMWOOD PARK,	:	
BERGEN COUNTY,	:	
	:	
RESPONDENT.	:	
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SYNOPSIS

Petitioner – a former teacher in respondent’s school district, who was dismissed from her tenured position on February 8, 2012 for unbecoming conduct and insubordination – appealed the determination of the respondent Board to withhold her 2011-2012 salary increment. The Board filed a motion for summary judgment, contending that the salary withholding matter is moot.

The ALJ found, *inter alia*, that: petitioner is no longer an employee of the district in light of her dismissal based on the adjudication of tenure charges; she can therefore no longer claim any right to restoration of an employment increment for service which has been determined to be unsatisfactory; the tenure charge adjudication rendered this controversy moot as it precluded the granting of the requested relief. Accordingly, the ALJ granted the Board’s motion for summary decision and dismissed the petition.

Upon independent review and consideration, the Commissioner concurred with the ALJ that petitioner’s termination from tenured employment has rendered the within petition moot. Accordingly, the recommended decision of the OAL was adopted as the final decision in this matter, and the petition was dismissed.

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.

June 27, 2012

OAL DKT. NO. EDU 12813-11
AGENCY DKT. NO. 300-10/11

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

Upon full consideration, the Commissioner is in agreement with the Administrative Law Judge (ALJ) that – with the Commissioner’s tenure decision of February 8, 2012 terminating petitioner from her position with the Board of Education of Elmwood Park – petitioner’s claim here for restoration of her withheld employment increment has been rendered moot. Additionally, as aptly noted by the ALJ, because the issues underlying petitioner’s increment withholding were fully adjudicated during her tenure hearing, she is also barred from attempting to relitigate the same issues in this matter.

Accordingly, the recommended decision of the OAL granting summary decision to the Board is adopted as the final decision in this matter and the instant petition of appeal is hereby dismissed.

IT IS SO ORDERED.*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: June 27, 2012

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* This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36* (*N.J.S.A. 18A:6-9.1*).