

#209-12 (OAL Decision: Not yet available online)

ROMONIA ROBERTS, :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
TOWNSHIP OF IRVINGTON,
ESSEX COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioner contended that she was employed by respondent Board as a janitorial employee under tenure, pursuant to *N.J.S.A. 18A:17-3*, and that her dismissal from employment in October 2010 violated her rights under *N.J.S.A. 18A:6-10 et seq.* The Board asserted that petitioner did not serve as a janitor, but rather as a maintenance/driver/aide in the District’s transportation department.

The ALJ found, *inter alia*, that: petitioner – who is licensed as a school bus driver – worked in respondent’s district from 1987 until her termination in October 2010, first as a bus driver and then as a maintenance/driver/aide in the transportation department; petitioner was employed under a collective bargaining agreement that included only transportation workers, which expired June 30, 2011 – after which the district outsourced its transportation; petitioner did not hold the “Black Seal” licensure required of custodians in the district, but rather held a commercial driver’s license, which was required of transportation department employees; the district’s transportation employees were all appointed for a fixed term, and did not earn tenure; petitioner was never appointed for a fixed term, but was also never employed as a janitor within the meaning of *N.J.S.A. 18A:17-3*; and although petitioner performed some janitorial tasks, these appear to have been assigned to keep petitioner busy and cannot be considered her primary duties. Accordingly, the ALJ concluded that the provisions of *N.J.S.A. 18A:17-3* were not applicable to petitioner’s employment; petitioner did not earn tenure; and the Board did not act in contravention of her statutory rights when it terminated her employment. The ALJ ordered the petition dismissed.

Upon a full and independent review, the Commissioner concurred with the Administrative Law Judge’s findings and adopted the Initial Decision of the OAL as the final decision in this matter, for the reasons clearly presented therein.

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.
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May 18, 2012

OAL DKT. NO. EDU 2761-11
AGENCY DKT. NO. 3-1/11

ROMONIA ROBERTS, :
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 PETITIONER, :
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 BOARD OF EDUCATION OF THE : DECISION
 TOWNSHIP OF IRVINGTON, :
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 RESPONDENT. :

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

Upon such review, the Commissioner adopts the Initial Decision as the final decision for the reasons set forth therein.

IT IS SO ORDERED.*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: May 18, 2012
Date of Mailing: May 21, 2012

* 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).