

#112-14 (OAL Decision: Not available online)

NIEVES PITA, :

PETITIONER, : COMMISSIONER OF EDUCATION

V. : DECISION

BOARD OF EDUCATION OF THE CITY :
OF ELIZABETH, UNION COUNTY, :

RESPONDENT. :

SYNOPSIS

In August 2010, petitioner filed an appeal of the termination of her employment as a world language teacher through a reduction in force (RIF) in June 2010, contending that the Board violated her tenure and seniority rights under *N.J.S.A.* 18A:28-5 et seq. Petitioner sought reinstatement and back pay retroactive to the date of her termination.

The ALJ found that: petitioner failed to appear for a hearing in this matter on January 29, 2014, despite having received appropriate notice; attorney for the petitioner appeared at the hearing and confirmed on the record that she had communicated regularly with her client, and had confirmed by telephone and email the day before the hearing that petitioner’s appearance was mandatory if she wished to continue the pursuit of her claim; notwithstanding, the petitioner failed to appear, and offered no explanation for her non-appearance. Accordingly, the ALJ concluded that petitioner has abandoned this matter and ordered the case returned to the Department for appropriate disposition.

Upon independent review, the Commissioner determined that this matter is no longer deemed to be a contested case, and accordingly dismissed the matter with prejudice.

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.

March 5, 2014

OAL DKT. NO. EDU 9849-10
AGENCY DKT. NO. 394-8/10

NIEVES PITA, :
PETITIONER, : COMMISSIONER OF EDUCATION
V. : DECISION
BOARD OF EDUCATION OF THE CITY :
OF ELIZABETH, UNION COUNTY, :
RESPONDENT. :
_____ :

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) pursuant to *N.J.A.C.* 1:1-14.4, dismissing the petition for petitioner's failure to appear at the scheduled hearing, have been reviewed. The Initial Decision recites that petitioner's counsel, who attended the hearing on January 29, 2014, had advised petitioner of the hearing but had received no commitment from petitioner that she would attend same. Nor did petitioner contact her counsel or the OAL on the day of the hearing or the next day to explain her absence. As over thirteen days have passed without any communication from petitioner, this matter is no longer deemed to be a contested case before the Commissioner of Education and is hereby dismissed with prejudice.¹

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

Date of Decision: March 5, 2014

Date of Mailing: March 6, 2014

¹ This decision, as the Commissioner's final determination in the instant matter, may be appealed to the Superior Court, Appellate Division, pursuant to *P.L.* 2008, c. 36 (*N.J.S.A.* 18A:6-9.1).