

YVETTE JOHNSON-DEEN, :
PETITIONER, : COMMISSIONER OF EDUCATION
V. : DECISION
STATE-OPERATED SCHOOL DISTRICT :
OF THE CITY OF NEWARK, ESSEX :
COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioner – a former employee of the Newark School District (District) – contended that she was terminated from her teaching position in violation of her tenure rights. The respondent asserted that the within appeal was not timely filed pursuant to *N.J.A.C.* 6A:3-1.3(i), and furthered claimed that petitioner had not been employed under tenure. Petitioner began employment with the District as a Teacher of the Handicapped in September 2001; it is not clear, however, whether she ever attained standard certification as a Teacher of the Handicapped. She was terminated by letter dated March 12, 2013, with an effective date of March 15, 2013. The within appeal was filed on August 14, 2013, but not perfected until August 27, 2013. The District asserted that the within appeal was not timely filed pursuant to *N.J.A.C.* 6A:3-1.3(i), and furthered claimed that petitioner had not been employed under tenure in its schools. Respondent filed a motion for summary decision.

The ALJ found, *inter alia*, that: there are no material facts in dispute, and the matter is ripe for summary decision; petitioner filed her appeal pursuant to *N.J.A.C.* 6A:3-1.1 et seq., which establishes procedures for appeals before the Commissioner; the time for filing is clearly set forth at *N.J.A.C.* 6A:3-1.3(i), which provides that a petition of appeal before the Commissioner must be filed no later than the 90th day from the date of receipt of the notice of a final order or ruling; petitioner in the instant matter unequivocally learned that her employment was terminated on March 15, 2013 – her last day of work in the district; her appeal should have been filed at the latest within ninety days of March 15, 2013; there are no facts present in this matter that would warrant the relaxation of the 90 day rule. Accordingly, the ALJ concluded that petitioner’s appeal should be dismissed as untimely.

Upon careful review, the Commissioner adopted the Initial Decision of the OAL as the final decision in this matter, and dismissed the petition.

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| 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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OAL DKT. NO. EDU 13451-13
AGENCY DKT. NO. 185-8/13

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Upon careful review of the record of this matter and the Initial Decision of the Office of Administrative Law,¹ the Commissioner concurs with the Administrative Law Judge that the petition was not filed in compliance with *N.J.A.C. 6A:3-1.3(i)*.

Accordingly, the Commissioner adopts the Initial Decision as the final decision in this case and dismisses the petition.

IT IS SO ORDERED.²

ACTING COMMISSIONER OF EDUCATION

Date of Decision: May 5, 2014

Date of Mailing: May 6, 2014

¹ Neither party submitted exceptions to the Initial Decision.

² 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)*.