

LINDA TURRELL, :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
TOWNSHIP OF HAZLET, :
MONMOUTH COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioner – employed for many years as an elementary media specialist in respondent Board’s school district – sought reinstatement retroactive to June 30, 2010 to a teaching position with the Board based on her tenure rights and seniority status following the elimination of her media specialist position as part of a reduction in force (RIF). Petitioner contended that she had tenure under her instructional certificate with endorsement as a Teacher of English, which – along with her seniority rights – entitled her to a full-time teaching position or assignment in the district. The Board argued that petitioner never achieved tenure under her instructional certificate, and that her tenure rights are therefore limited to the media specialist position – which position was abolished in the 2010 RIF. The parties filed cross motions for summary decision.

The ALJ found, *inter alia*, that: there are no material facts at issue herein, and the matter is ripe for summary decision; petitioner was employed by the Board for approximately 23 years as a media specialist; the Board demonstrated that petitioner taught for only 10 months under her instructional certificate during the 2001-2002 school year, which is not sufficient to qualify for tenure; and petitioner’s assertion that her time in the district should be viewed as a dual assignment because she served simultaneously as an educational media specialist and a teacher of language arts literacy is without merit. The ALJ concluded that petitioner has demonstrated only one year’s time as a teacher of English under her instructional certificate, which is insufficient to qualify her for tenure in that position. Accordingly, the ALJ granted the Board’s motion for summary decision and dismissed the case.

Upon comprehensive review, the Commissioner concurred with the ALJ’s determination that the petitioner did not acquire tenure under her instructional certificate as an English teacher. Accordingly, the Initial Decision was adopted as the final decision in this case, and the petition was dismissed.

<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>

OAL DKT. NO. EDU 9327-10
AGENCY DKT. NO. 140-7/10

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed, as have the exceptions filed pursuant to *N.J.A.C. 1:1-18.4* by the petitioner and the Hazlet Board of Education's (Board) reply thereto.

The petitioner's exceptions substantially reiterate the substance of her post-hearing submission at the OAL, recasting the arguments therein to support the contention that the Administrative Law Judge (ALJ) erroneously found that the Board did not violate the petitioner's tenure and seniority rights. In her exceptions, the petitioner points out that it is undisputed that she held two certificates throughout her employment in the district, including an educational services certificate with an endorsement as an educational media specialist and an instructional certificate with an endorsement as a teacher of English. Petitioner argues that as a result of her simultaneous instructional and media specialist assignments from September 1, 1987 through June 30, 2010, she acquired tenure as both a media specialist and an English teacher. Therefore, when the Board abolished the district's media specialist position in 2010, it had an obligation to recognize the petitioner's tenure right to claim a position as an

English teacher over any non-tenured and/or less senior teaching staff members for the 2010-2011 school year.

In reply the Board also reiterated the positions advanced in its submissions at the OAL, arguing that the ALJ properly determined that the petitioner did not acquire tenure as an English teacher. The Board emphasizes that with the exception of the petitioner's teaching assignment during the 2001-2002 school year, petitioner only served in the district under her educational services certificate as a media specialist. Although petitioner had clearly acquired tenure as a media specialist, petitioner's one year of service as a teacher during the 2001-2002 school year does not come close to meeting the standards for the acquisition of tenure as an English teacher under *N.J.S.A.* 18A:28-5.

Upon a comprehensive review of the record in this matter, the Commissioner concurs with the Administrative Law Judge – for the reasons thoroughly set forth in the Initial Decision – that the petitioner did not acquire tenure under her instructional certificate as an English teacher. The objections raised in the exceptions filed by the petitioner mimic the arguments previously raised before the ALJ and were clearly taken into account by her in determining that the Board was entitled to summary decision. Accordingly, the Initial Decision is adopted as the final decision in this matter and the petition is hereby dismissed.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: February 19, 2015

Date of Mailing: February 19, 2015

* Pursuant to *P.L.* 2008, c. 36 (*N.J.S.A.* 18A:6-9.1), Commissioner decisions are appealable to the Superior Court, Appellate Division.