

#219-16

IN THE MATTER OF THE TENURE :  
HEARING OF STEPHEN MAX, : COMMISSIONER OF EDUCATION  
SCHOOL DISTRICT OF THE CITY OF : DECISION  
TRENTON, MERCER COUNTY. :

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SYNOPSIS

Petitioning Board certified tenure charges of unbecoming conduct and other just cause against respondent – a tenured teacher under the Board’s employ – and sought to terminate his employment with the district. Neither respondent nor any attorney acting on his behalf filed an answer to the tenure charges following notice pursuant to *N.J.A.C.* 6A:3-5.3 and 6A:3-5.4.

The Commissioner concluded that, pursuant to *N.J.A.C.* 6A:3-5.3(c), the allegations – which respondent has chosen not to deny – may be deemed admitted and overwhelmingly warrant the termination of the respondent from his tenured position. Accordingly, the Commissioner granted summary decision to the petitioner, dismissed the respondent from his tenured position in petitioner’s school district, and forwarded a copy of this decision to the State Board of Examiners for review and action as that body deems appropriate.

<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>
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June 13, 2016

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For the Petitioner, Adam S. Herman, Esq.

No appearance by or on behalf of Respondent, Stephen Max

This matter was opened before the Commissioner of Education on April 29, 2016, through tenure charges of conduct unbecoming and other just cause certified by Lissa S. Johnson, Assistant Superintendent of the Trenton School District, together with supporting evidence against respondent, Stephen Max, a tenured teacher in the petitioner’s employ. The petitioner provided respondent with written notice of such certification at the respondent’s last known address, via overnight mail on April 28, 2016. The petitioner also served a copy of the tenure charges on the respondent’s union representative.

On May 2, 2016, the Commissioner directed the respondent – via both certified and regular mail – to file an answer to the charges. This communication clearly provided notice to respondent that, pursuant to *N.J.A.C.* 6A:3-5.3 and 6A:3-5.4, an individual against whom tenure charges are certified “*shall have 15 days from the day such charges are filed with the Commissioner to file a written response to the charges with the Commissioner,*” and that failure to answer within the prescribed period would – absent granting of an extension for good cause shown – result in the charges being deemed admitted. The certified mail copy that was sent to

the respondent was returned as undeliverable; however, the notice sent via regular mail was not returned. No reply to the tenure charges was received from or on behalf of respondent.

The certified tenure charges and statement of supporting evidence filed by the petitioner in this matter indicate that respondent is employed as a tenured teacher in the District. During the 2014-2015 school year, the respondent was absent from his employment for 23.5 days. The respondent reported to work on September 10, 2015, seven days after the 2015-2016 school year began. Between September 25, 2015 and November 20, 2015, the respondent called out from work on approximately 24 days. Finally, since November 20, 2015, the respondent has failed to report his absences, and has been AWOL from his teaching position.

Deeming the allegations to be admitted, and noting that respondent has failed to respond to the charges certified against him, the Commissioner finds that petitioner's charge of conduct unbecoming a teaching staff member has been proven and overwhelmingly warrants the respondent's dismissal. Accordingly, summary decision is hereby granted to the petitioner, and the respondent is dismissed from his tenured position with the District. This matter will be transmitted to the State Board of Examiners for action against respondent's certificate(s) as that body deems appropriate.

IT IS SO ORDERED.<sup>1</sup>

COMMISSIONER OF EDUCATION

Date of Decision: June 13, 2016

Date of Mailing: June 13, 2016

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<sup>1</sup> 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)