

C #363-98  
SB # 84-98

RANDY PRATT, :  
PETITIONER-APPELLANT, :  
V. : STATE BOARD OF EDUCATION  
BOARD OF EDUCATION OF THE : DECISION  
BOROUGH OF BUTLER, MORRIS :  
COUNTY, :  
RESPONDENT-RESPONDENT. :

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Decided by the Commissioner of Education, August 17, 1998

For the Petitioner-Appellant, D'Alessandro, Jacovino & Gerson  
(Frederick E. Gerson, Esq., of Counsel)

For the Respondent-Respondent, Graham, Curtin & Sheridan  
(Kathleen M. Noonan Fennelly, Esq., of Counsel)

Randy Pratt (hereinafter "petitioner"), a non-tenured teaching staff member employed as a principal by the Board of Education of the Borough of Butler (hereinafter "Board"), filed a petition with the Commissioner of Education alleging that the Board's failure to renew his employment for the 1996-97 school year was arbitrary and capricious. Petitioner alleged that the Board's action was based on false rumors and that it had failed to properly consider his evaluations.

On July 2, 1998, following eight days of hearings, an Administrative Law Judge ("ALJ") concluded that the Board's "determination not to renew petitioner's contract was not arbitrary and capricious but rather was a proper exercise of discretionary authority in regard to the granting of tenure." Initial Decision, slip op. at 59. On August 17, 1998,

the Commissioner adopted the findings and conclusions of the ALJ and dismissed the petition.

Petitioner filed the instant appeal to the State Board.

After a thorough review of the record, we dismiss the appeal. It is now well-established that a district board has virtually unlimited discretion in hiring or renewing non-tenured teachers. Dore v. Bedminster Twp. Bd. of Ed., 185 N.J. Super. 447 (App. Div. 1982). “[A]bsent constitutional constraints or legislation affecting the tenure rights of teachers, local boards of education have an almost complete right to terminate the services of a teacher who has no tenure and is regarded as undesirable by the local board.” Id. at 456. Thus, where a non-tenured teacher challenges a district board’s decision to terminate his employment, he is entitled to litigate that claim only if the facts he alleges, if true, would constitute a violation of constitutional or legislatively-conferred rights. Guerriero v. Board of Education of the Borough of Glen Rock, decided by the State Board of Education, February 5, 1986, aff’d, Docket #A-3316-85T6 (App. Div. 1986). Petitioner has made no such claim.

We therefore dismiss the appeal.<sup>1</sup>

January 6, 1999

Date of mailing \_\_\_\_\_

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<sup>1</sup> Nonetheless, given the extensive hearings in this matter, we have reviewed the record and concur with the Commissioner’s decision to dismiss the petition. We agree with the conclusion of the ALJ, which was adopted by the Commissioner, that petitioner failed to demonstrate that the Board’s action in failing to renew his employment was arbitrary or capricious. Nor has he demonstrated any violation of constitutional or legislatively-conferred rights.