

TONI HEALY, :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 BOARD OF EDUCATION OF THE : DECISION
 TOWNSHIP OF HAMILTON, MERCER :
 COUNTY, :
 :
 RESPONDENT. :

SYNOPSIS

Petitioning nontenured teacher challenged the Board's decision to deny her a contract for the 1997-98 school year and sought a contract of employment for the 1998-99 school year. Petitioner withdrew all claims except those for back pay for April through June 1998. (Petitioner's long-term substitute teacher position ended on April 3, 1998.)

The ALJ determined that it was clear that it was the Board's intent to reappoint petitioner notwithstanding the negative recommendation of the superintendent at its August 1997 Board meeting. The Board acted on that intent at the September 24, 1997 Board meeting. Petitioner's salary pursuant to her reappointment for the 1997-98 school year was not in dispute; the Board, however, did not pay petitioner after April 4, 1998 although it was obligated to do so and it did not reassign her to other teaching duties, although it was entitled to do so. The ALJ concluded that petitioner was entitled to summary decision compensating her for the balance of the 1997-98 school year April through June 1998. The ALJ ordered the Board to compensate petitioner for back pay in the amount of \$8,991.75 with reimbursement to the Department of Labor for unemployment compensation benefits for the same period.

The Commissioner adopted findings and determination in initial decision as his own and directed payment of back pay to petitioner.

June 26, 2000

OAL DKT. NO. EDU 6173-98
AGENCY DKT. NO. 192-6/98

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The record of this matter and the Initial Decision of the Office of Administrative Law have been reviewed. The Board's exceptions were untimely filed pursuant to *N.J.A.C.* 1:1-18.4(a), in that the Initial Decision was mailed to the parties on May 15, 2000 and the exceptions, bearing a face date of May 31, 2000, were filed on June 1, 2000¹. Consequently, these exceptions were not considered in the Commissioner's determination of this matter.

Upon careful and independent review of the record, the Commissioner affirms the Initial Decision of the ALJ for the reasons expressed therein. Accordingly, the Board is directed to compensate petitioner the amount of \$8,991.75, representing back pay from April 3, 1998 through June 30, 1998.²

IT IS SO ORDERED.³

COMMISSIONER OF EDUCATION

Date of Decision: June 26, 2000

Date of Mailing: June 26, 2000

¹ The thirteen days permitted by regulation to file exceptions expired on Sunday, May 28, 2000, and the next day, May 29, 2000, was a State holiday. Therefore, exceptions were due on or before May 30, 2000.

² In accordance with *N.J.A.C.* 1:1-14.10(j), the Commissioner affirms the ALJ's Interlocutory Order of July 26, 1999.

³ This decision, as the Commissioner's final determination, may be appealed to the State Board of Education pursuant to *N.J.S.A.* 18A:6-27 *et seq.* and *N.J.A.C.* 6A:4-1.1 *et seq.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.

