

IN THE MATTER OF THE TENURE :
HEARING OF RALPH MC CULLOUGH, : COMMISSIONER OF EDUCATION
SCHOOL DISTRICT OF THE CITY OF : DECISION
TRENTON, MERCER COUNTY. :

SYNOPSIS

Board filed tenure charges against respondent janitor of conduct unbecoming and excessive absenteeism. In a companion case, respondent filed an action against the Board for terminating him in contravention of his tenure rights. The Commissioner determined in that matter that respondent was a tenured employee and that the Board must follow the statutory procedures for tenured employees in order to terminate respondent's employment.

The ALJ, who decided both the termination matter and the within tenure matter, recommended dismissing the tenure proceedings because he determined in the companion matter that petitioner did not have tenure and was properly terminated by the Board.

The Commissioner reversed and remanded the matter for proceedings to resolve the tenure charges based on his decision in the companion matter that respondent is a tenured employee entitled to the protections of the statutory procedures for terminating tenured employees.

<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 2048-00
AGENCY DKT. NO. 57-2/00

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The record and Initial Decision issued by the Office of Administrative Law (OAL) have been reviewed. The parties filed no exceptions to the Initial Decision.

In light of the Commissioner's determination in the companion case to the instant matter, *Ralph McCullough v. Board of Education of the City of Trenton, Mercer County*, OAL Dkt. No. EDU 10053-99, Agency Dkt. No. 325-10/99, decided by the Commissioner on January 15, 2002, which found that Mr. McCullough had attained tenure as a custodian, the Initial Decision is hereby reversed and this matter is remanded to the OAL for proceedings pursuant to *N.J.S.A. 18A:6-10 et seq.*

IT IS SO ORDERED.*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: 1/22/02

Date of Mailing: 1/23/02

* 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:2-1.1 et seq.* Commissioner decisions are deemed filed three days after the date of mailing to the parties.