

361-02

IN THE MATTER OF THE TENURE :
HEARING OF BARBARA THOMAS, :
STATE-OPERATED SCHOOL DISTRICT :
OF THE CITY OF PATERSON, PASSAIC :
COUNTY, : COMMISSIONER OF EDUCATION
AND : DECISION
BARBARA ANN THOMAS, :
PETITIONER, :
V. :
STATE-OPERATED SCHOOL :
DISTRICT OF THE CITY OF :
PATERSON, PASSAIC COUNTY, :
RESPONDENT. :
_____ :

SYNOPSIS

In consolidated matter, the District certified tenure charges of unbecoming conduct and excessive absenteeism against Ms. Thomas, teaching staff member who alleged the District illegally docked her pay.

The ALJ concluded that the District sustained its tenure charges against Ms. Thomas since her actions and absences deprived her students of the education to which they were entitled. Ms. Thomas's charges against the District for back pay were dismissed for failure to prosecute. The ALJ ordered Ms. Thomas dismissed from her tenured teaching/speech therapist position in the District.

The Commissioner adopted the findings and determination in the Initial Decision as his own and directed that Ms. Thomas be dismissed from her tenured position as of the date of this decision.

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.

October 9, 2002

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_____ :

The record of this matter and the Initial Decision of the Office of Administrative Law have been reviewed. Ms. Thomas'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 September 4, 2002 and the exceptions were filed on September 20, 2002, outside the 13-day period prescribed by regulation. Accordingly, the exceptions were not considered in the Commissioner's determination of this matter.¹

¹ On October 2, 2002, Ms. Thomas filed a request for an extension of time in order to seek legal counsel and file *additional* exceptions to the Initial Decision. The District was not copied on Ms. Thomas's request, which is herein denied.

Upon careful and independent review of the record in this consolidated matter, the Commissioner concurs that the District has demonstrated Ms. Thomas is guilty of conduct unbecoming a teaching staff member and excessive absenteeism in the 2001-02 school year. Based on the totality of the record before him, the Commissioner finds that Ms. Thomas's actions have had an adverse impact upon the execution of her duties as a speech therapist, contributing to a discontinuity of instruction for the students assigned to receive services from her. Under these circumstances, the Commissioner concurs with the Administrative Law Judge that Ms. Thomas's termination is warranted. *In the Matter of the Tenure Hearing of Janet Ingram, School District of Bloomingdale, Passaic County*, Commissioner Decision June 27, 2002.

Additionally, the Commissioner concurs with the ALJ that Ms. Thomas's claim against the District for back pay is properly dismissed for failure to prosecute.

Accordingly, the Initial Decision is affirmed. Ms. Thomas is deemed dismissed from her tenured position in the District as of the date of this decision. This matter shall be transmitted to the State Board of Examiners, pursuant to *N.J.A.C.* 6:11-3.6, for action, as that body deems appropriate, against Ms. Thomas's certificate.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: October 9, 2002

Date of Mailing: October 9, 2002

² 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.