

# 387-08 (OAL Decision: Not yet available on-line)

GLORIA DEZUZIO, :  
PETITIONER, :  
V. : COMMISSIONER OF EDUCATION  
BOARD OF EDUCATION OF THE : DECISION  
BOROUGH OF BOUND BROOK,  
SOMERSET COUNTY, :  
RESPONDENT. :

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SYNOPSIS

Petitioner, a tenured secretarial employee whose position was abolished in a reduction in force (RIF) in 2005, alleged that the respondent Board violated her tenure and seniority rights when it employed non-tenured secretaries in positions that she was qualified for. The Board denies the allegation, contending that no non-tenured secretaries were retained when petitioner's position was eliminated.

The ALJ found that: to acquire the security of tenure, the precise conditions enunciated in the applicable statute must be met; *N.J.S.A. 18A:17-2* specifically governs the tenure of secretarial or clerical positions in school districts; the statutes applicable to secretaries and clerical employees do not require that terminations resulting from a reduction in force or reemployment of such individuals be made on the basis of seniority; and the Board's elimination of petitioner's position was pursuant to a reduction in force in accordance with *N.J.S.A. 18A:17-2* and *N.J.S.A. 18A:6-10*. The ALJ concluded that the petitioner should be dismissed.

Upon a thorough and independent review of the record in this matter the Commissioner concurred with the findings and conclusions in the Initial Decision, adding that the respondent Board was not obliged to maintain a seniority list nor to call petitioner back when secretarial openings occurred in the district. Accordingly, the Initial Decision was adopted as the final decision, and the petition was dismissed.

<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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September 18, 2008

OAL DKT. NO. EDU 771-06  
AGENCY DKT. NO. 67-2/06

GLORIA DEZUZIO, :  
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The Commissioner of Education (Commissioner) has independently reviewed the Initial Decision of the Office of Administrative Law and the record underlying it – including the transcript of the September 19, 2007 hearing and the exhibits that were entered into evidence.<sup>1</sup>

Upon such review, the Commissioner adopts the Initial Decision as the final decision in this case, with the following additional comment. While petitioner did not meet her burden to show that there was any improper reason for the elimination of her position, or that a non-tenured secretary was retained when she was let go, she nonetheless suggested that she should have been contacted by respondent when – approximately six months after her position was eliminated – respondent advertised for two new secretarial positions necessitated by the opening of a new school and the retirement of a secretary in the Pupil Services office.

However, as the Administrative Law Judge explained, in the context of reductions in force (RIFS), school district secretaries – unlike teachers and custodians – are not terminated or reinstated on the basis of seniority. *Ferronto v. Bd. of Educ. of the Township of Wymouth, et*

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<sup>1</sup> No exceptions were filed.

*al.*, State Board of Education Decision #36-05, decided February 1, 2006. Respondent was, consequently, not obliged to maintain a seniority list and call petitioner back when secretarial openings occurred in the district.

The petition is accordingly dismissed.

IT IS SO ORDERED.<sup>2</sup>

COMMISSIONER OF EDUCATION

Date of Decision: September 18, 2008

Date of Mailing: September 18, 2008

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<sup>2</sup> This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36*.