

#164-13

IN THE MATTER OF THE TENURE :
HEARING OF CYNTHIA FAY, : COMMISSIONER OF EDUCATION
SCHOOL DISTRICT OF THE CITY OF : DECISION
VINELAND, CUMBERLAND COUNTY. :
_____:

SYNOPSIS

Petitioning Board filed tenure charges of incapacity, conduct unbecoming, and other just cause against respondent – a tenured teacher – and sought to terminate her employment with the district. Neither respondent nor any attorney acting on her behalf filed an answer to the petition following notice pursuant to *N.J.A.C.* 6A:3-5.3 and 6A:3-5.4.

The Commissioner concluded that, pursuant to *N.J.A.C.* 6A:3-5.4(h), the allegations – which respondent has chosen not to deny – may be deemed admitted and are sufficient to warrant termination of the respondent from her tenured position. Accordingly, the Commissioner granted summary decision to the petitioner, dismissed the respondent from her tenured position in petitioner’s school district, and forwarded a copy of this decision to the State Board of Examiners for review and action as that body deems appropriate.

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.

May 6, 2013

IN THE MATTER OF THE TENURE :
HEARING OF CYNTHIA FAY, : COMMISSIONER OF EDUCATION
SCHOOL DISTRICT OF THE CITY OF : DECISION
VINELAND, CUMBERLAND COUNTY. :
_____ :

For the Board, Robert A. De Santo, Esq.

No appearance by or on behalf of Respondent, Cynthia Fay

This matter was opened before the Commissioner of Education on March 18, 2013, through certification of tenure charges of incapacity, unbecoming conduct and other just cause by the Board of Education of the City of Vineland (Board) against Cynthia Fay (respondent), a tenured teacher in the Board’s employ. Following its review of the charges as filed, together with the supporting evidence and respondent’s reply, the Board had resolved on March 13, 2013 to certify these charges to the Commissioner and had provided respondent with written notice of such certification via regular and certified mail sent on March 14, 2013.¹

After receipt of the certified charges on March 18, 2013, the Department directed respondent – via both certified and regular mail – to file an answer to the charges. This communication clearly provided notice to respondent that, pursuant to *N.J.A.C. 6A:3-5.3* and *6A:3-5.4*, an individual against whom tenure charges are certified “*is required to file written response to the charges within 15 days of date filed with Commissioner.*” It further advised that failure to answer within the prescribed period would – absent the granting of an extension for good cause shown – result in the charges being deemed admitted. The copy of the notice sent by certified mail was returned unclaimed, but the copy sent by regular mail has not been returned to

¹ On the same date, notice was sent by regular and certified mail to respondent’s union representative.

the Commissioner as undeliverable. The above referenced notices were sent to respondent on April 3, and no reply has been received from or on behalf of respondent to date.

The charges and statements of supporting evidence filed by the Board indicate that respondent's attendance and punctuality had been unsatisfactory, and that – on at least one occasion – the cause had been consumption of alcohol. Respondent was absent for 49.5 days during the 2007-08 school year, 83.5 days in the 2009-2010 school year, 183.5 days in the 2010-2011 school year, 91.5 days in the 2011-2012 school year and 71 days in the current school year.

Deeming these allegations to be admitted – due to respondent's failure to respond to same – the Commissioner finds that the Board's charges have been proven and that they warrant respondent's dismissal from tenured employment.

Accordingly, summary decision is hereby granted to the Board, and respondent is dismissed from her tenured teaching staff position as of the filing date of this decision. A copy of this decision shall be forwarded to the State Board of Examiners for review and action as that body deems appropriate.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: May 6, 2013

Date of Mailing: May 6, 2013

² This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36* (*N.J.S.A. 18A:6-9.1*).