

TAMMY LANE, :
PETITIONER, : COMMISSIONER OF EDUCATION
V. : DECISION
STATE-OPERATED SCHOOL DISTRICT :
OF THE CITY OF PATERSON, :
PASSAIC COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioner filed an appeal in February 2012, seeking the return of sick days under *N.J.S.A. 18A:30-2.1*, following a workers' compensation settlement. The ALJ assigned to the case issued a pre-trial order in February 2014 requiring the production of discovery, which had been requested by the respondent. The petitioner failed to produce the requested discovery.

The ALJ found that respondent issued a new notice to produce the discovery in July 2014, which also went unanswered, and subsequently filed a motion seeking dismissal of the case for lack of prosecution. As petitioner failed to respond to the motion for dismissal, the ALJ granted the motion pursuant to *N.J.A.C. 1:1-14.14(a)*.

The Commissioner concurred with the ALJ that the matter is appropriately dismissed for failure to appear and prosecute. Accordingly, the Initial Decision of the OAL was adopted as the final decision, and the petition was dismissed.

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.

December 5, 2014

OAL DKT. NO. EDU 3668-12
AGENCY DKT. NO. 36-2/12

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Petitioner instituted this action to request the restoration of days to her sick leave bank, contending that her absences on said days were due to a work-related injury as to which she had attained a workers' compensation settlement. Discovery was demanded by respondent, for the purpose of identifying which absences petitioner could prove were related to her workplace injury, and the Administrative Law Judge (ALJ) assigned to the instant case in the Office of Administrative Law (OAL) issued a pre-trial order on February 18, 2014 requiring the production of such discovery.

The Commissioner's review of the record and Initial Decision of the OAL¹ reveals that, to date, petitioner has not produced the requested discovery – notwithstanding the above referenced pre-trial order, a subsequent conference call, and another notice to produce. Moreover, petitioner has not responded to a September 25, 2014 motion by respondent to dismiss the case. Consequently, the Commissioner concurs with the ALJ that this matter should be dismissed for lack of prosecution.

¹ Neither party filed exceptions.

Accordingly, respondent's motion for summary disposition is granted and the petition is dismissed.

IT IS SO ORDERED.²

ACTING COMMISSIONER OF EDUCATION

Date of Decision: December 5, 2014

Date of Mailing: December 5, 2014

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