

#401-15 (OAL Decision: Not yet available online)

JANENE RODRIGUEZ, :

PETITIONER, :

v. : COMMISSIONER OF EDUCATION

BOARD OF EDUCATION OF THE : DECISION

CITY OF NEW BRUNSWICK, :

MIDDLESEX COUNTY, :

RESPONDENT. :

SYNOPSIS

Petitioner – formerly assigned as the principal at New Brunswick High School – appealed her August 2015 reassignment to the position of principal at the McKinley Community elementary school, contending that she had been demoted and her salary potentially reduced, in violation of her tenure rights. The respondent Board filed a motion for summary decision.

The ALJ found, *inter alia*, that: there are no material facts at issue herein, and the matter is ripe for summary decision; although elementary school principals earn less than high school principals under collectively negotiated agreements, the petitioner in the instant case continues to earn the same salary that she did as high school principal; petitioner’s benefits also remain the same; petitioner holds the tenured position of “Principal”, and there are no separate titles for “High School Principal” and “Elementary School Principal”; petitioner’s contentions that her tenure is only in the position of high school principal and that her transfer is a demotion are without merit; the controlling case in this matter, *Williams v. Board of Education of Plainfield*, 176 N.J. Super., 154 (App. Div. 1980), certif. denied, 87 N.J. 306 (1981), holds that as long as the salary is not reduced, a transfer from the assignment of high school principal to that of elementary school principal is not a demotion as the new assignment is within the same tenured position, and such a transfer is proper and may occur without the petitioner’s consent. The ALJ concluded that the respondent’s transfer of petitioner was proper, and accordingly granted the Board’s motion for summary decision. The petition was dismissed.

Upon review, the Commissioner concurred with the ALJ – for the reasons set forth in the Initial Decision – that the Board acted within its authority when it transferred petitioner from the assignment of high school principal to that of elementary school principal. Accordingly, summary decision was granted to the respondent, 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 9, 2015

OAL DKT. NO. EDU 11645-15
AGENCY DKT. NO. 212-8/15

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RESPONDENT. :

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The parties did not file exceptions.

Upon such review, the Commissioner concurs with the ALJ – for the reasons thoroughly set forth in the Initial Decision – that the Board acted within its authority when it transferred petitioner from the assignment of high school principal to elementary school principal. The Commissioner is also in accord with the ALJ that such transfer was not a demotion, as petitioner remained in the position of principal – only a change of assignment, not a change of position – and her salary was not reduced.

Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter and the petition is hereby dismissed.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: December 9, 2015
Date of Mailing: December 10, 2015

* 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)*.