

#95-15

IN THE MATTER OF THE TENURE HEARING :
OF FLORENCE RUFFIN HARRISON, : COMMISSIONER OF EDUCATION
STATE-OPERATED SCHOOL DISTRICT : DECISION
OF THE CITY OF NEWARK, ESSEX COUNTY. :

SYNOPSIS

Petitioning Board filed tenure charges of incapacity 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.
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March 13, 2015

AGENCY DKT NO. 7-1/15

IN THE MATTER OF THE TENURE HEARING :
OF FLORENCE RUFFIN HARRISON, : COMMISSIONER OF EDUCATION
STATE-OPERATED SCHOOL DISTRICT : DECISION
OF THE CITY OF NEWARK, ESSEX COUNTY. :

For the Petitioner, Rita F. Barone, Esq.

No appearance by or on behalf of Respondent, Florence Ruffin Harrison

This matter was opened before the Commissioner of Education on January 12, 2015, through tenure charges of incapacity certified by Cami Anderson, State District Superintendent of the State-Operated School District of the City of Newark, together with supporting evidence against Florence Ruffin Harrison, a tenured teacher in the District's employ. The District provided respondent with written notice of such certification at the respondent's last known address, via Federal Express, sent on or about January 9, 2015. The District also served a copy of the tenure charges on the respondent's union representative.

On January 13, 2015, the Commissioner directed the 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 “*shall have 15 days from the date such charges are filed with the Commissioner to file a written response to the charges with the Commissioner,*” and that failure to answer within the prescribed period would – absent granting of an extension for good cause shown – result in the charges being deemed admitted. No reply to the tenure charges was received from or on behalf of respondent.

The certified tenure charges and statement of supporting evidence filed by the petitioner in this matter indicate that during the 2013-2014 school year, the respondent was scheduled for an Independent Medical Examination (IME) because the respondent's behavior called into question her ability to perform her duties as a teacher. The IME recommended a thorough neurological workup due to the fast deterioration of the respondent's cognitive ability and her incontinence. According to the IME, the respondent was not fit to return to work. As a result, the District placed the respondent on paid administrative leave effective April 30, 2014. The District informed the respondent that, as a condition of her leave, she was required to keep the District informed of her status and efforts to return to a position in the District.

By letter dated July 21, 2014, the District advised the respondent that it had not received any report from her physician nor any communication from the respondent advising the District of her medical status. This letter also advised the respondent that she had been granted administrative leave in order to secure medical attention, and that she had an obligation to keep the District informed of her status. By letter dated July 25, 2014, the District again reiterated the conditions under which leave had been granted, and informed the respondent that disciplinary action would be taken if she did not provide the District with an update on her medical status. To date, the District has not received a response from the respondent.

Deeming the allegations to be admitted and noting that respondent has failed to respond to the charges certified against her, the Commissioner finds that the District's charge of incapacity against the respondent has been proven and that it warrants respondent's dismissal. The respondent's IME and her failure to abide by the terms under which she was granted administrative leave demonstrate that she is incapable of fulfilling the demands of her position as a teacher in the District. Accordingly, summary decision is hereby granted to the petitioner, and

the respondent is dismissed from her tenured position with the District. This matter will be transmitted to the State Board of Examiners for action against respondent's certificate(s) as that body deems appropriate.

IT IS SO ORDERED.¹

COMMISSIONER OF EDUCATION

Date of Decision: March 13, 2015

Date of Mailing: March 17, 2015

¹ 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*)