

275-17

IN THE MATTER OF THE TENURE HEARING OF:

KATHLEEN MARSICO, MONMOUTH COUNTY : COMMISSIONER OF EDUCATION

VOCATIONAL SCHOOL, MONMOUTH COUNTY.: DECISION

SYNOPSIS

Petitioning Board certified tenure charges of neglect, conduct unbecoming, and other just cause against respondent – a tenured Executive Secretary under the Board’s employ – and sought to terminate her employment with the district. Neither respondent nor any attorney acting on her behalf filed an answer to the tenure charges 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:3-5.3(c), the allegations – which respondent has chosen not to deny – may be deemed admitted and warrant the 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.

<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>

September 8, 2017

AGENCY DKT NO. 95-5/17

IN THE MATTER OF THE TENURE HEARING :
OF KATHLEEN MARSICO, MONMOUTH COUNTY : COMMISSIONER OF EDUCATION
VOCATIONAL SCHOOL, MONMOUTH COUNTY. : DECISION

For the Petitioner, Sanford D. Brown, Esq.

No appearance by or on behalf of Respondent, Kathleen Marsico.

This matter was opened before the Commissioner of Education on May 22, 2017 through tenure charges of neglect, conduct unbecoming, and other just cause, certified by Timothy M. McCorkell, Superintendent of the Monmouth County Vocational School, together with a statement of supporting evidence against respondent, Kathleen Marsico, a tenured Executive Secretary in petitioner's employ. Petitioner provided respondent with written notice of such certification at her last known address – via hand delivery – on May 20, 2017.

On May 23, 2017, the Commissioner directed respondent – via both certified and regular mail – to file an answer to the charges. This communication 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 indicates that respondent has engaged in conduct that is unbecoming of a support staff member, including neglecting her duties, arriving to work unable to carry out her job responsibilities, failing to follow basic District procedures and protocols, insubordination, excessive absenteeism, and causing

disruption in the work environment. Documentation provided by the District reflect that respondent often neglected her duties; for instance, she failed to perform the basic administrative functions of her job, such as processing employee or employment-related paperwork. She also failed to keep track of other assigned responsibilities: she allowed check payments by parents to expire, most of which the District was unable to recover. The documentation also indicates that respondent often arrived to work disheveled, pre-occupied with personal problems unrelated to work, and unable to perform her duties. Respondent also regularly disregarded procedures for reporting her absences from work or late arrivals to work, despite having been repeatedly advised of the proper procedures by her supervisor. Respondent was out of the office for 38 days during the 2013-2014 school year, 68 days during the 2014-2015 school year, 18.5 days during the 2015-2016 school year, and 29.5 days between September and April (when she was suspended) during the 2016-2017 school year. The evidence reflects that respondent's conduct resulted in disruption in the work environment as other employees had to cover her job responsibilities, and her supervisors often had to fix the problems she created as a result of her failure to properly carry out her duties.

Deeming the allegations to be admitted – and noting that respondent has failed to respond to the charges certified against her – the Commissioner finds that petitioner's charges of neglect and conduct unbecoming have been proven, and warrant the respondent's dismissal from employment.

Accordingly, summary decision is hereby granted to the petitioner, and the respondent is dismissed from her tenured position with the District.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: September 8, 2017

Date of Mailing: September 13, 2017

* 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)*