

MARTINA GODBOLT, :
 PETITIONER, :
 V. : COMMISSIONER OF EDUCATION
 STATE-OPERATED SCHOOL DISTRICT : DECISION
 OF THE CITY OF CAMDEN,
 CAMDEN COUNTY, :
 RESPONDENT. :

SYNOPSIS

Petitioner – hired by the Camden City School District in November 2012 under a Certificate of Eligibility with Advanced Standing – challenged the respondent Board’s determination not to renew her teaching contract at the end of the 2014-2015 school year, for “failure to produce an appropriate certificate...and other good cause.” Petitioner argued that she had completed the requirements of the Provisional Teacher program to qualify for a standard teaching certificate, but the District failed to submit the paperwork necessary for her to receive her Standard Certificate. Petitioner filed her appeal on February 25, 2016, seeking reimbursement for wages from September 1, 2015 to November 4, 2015. The Board filed a motion to dismiss, contending that petitioner’s appeal was filed out of time, and that the petition failed to state a valid claim for relief.

The ALJ found, *inter alia*, that: pursuant to *N.J.S.A. 18A:27-10(b)*, written notice of a decision not to renew a non-tenured teacher must be received by May 15 of the current school year; pursuant to *N.J.A.C. 6A:3-1.3(i)*, a teacher seeking to contest a board decision must file a petition no later than the 90th day from the date of final notice of a board action; in the instant case, petitioner received notice from the Board that her contract was not being renewed on May 11, 2015, however – because District representatives assisted petitioner in obtaining her standard certificate and led her to believe that she would be reinstated once she had received it – the principal of equitable estoppel is applicable here; petitioner requested reinstatement by letter dated October 30, 2015, after her standard certificate was issued; the Board did not respond until December 2, 2015; thus, petitioner’s appeal was filed within 90 days of final notice that she would not be reinstated. However, absent constitutional constraints, local boards of education have an almost complete right to terminate the services of a non-tenured employee, and petitioner was timely notified pursuant to *N.J.S.A. 18A:27-10(b)* that her contract would not be renewed – not only for lack of proper certification, but also for “other good cause,” and petitioner failed to meet her burden to prove that the Board’s decision was arbitrary, capricious or unreasonable. Accordingly, the ALJ granted the Board’s motion to dismiss for failure to state a claim upon which relief can be granted, but denied the Board’s motion to dismiss for failure to timely file.

Upon review, the Commissioner concurred with the ALJ’s determination that the District’s non-renewal of petitioner was within its discretion, and there was no obligation to reinstate the petitioner once she acquired her certificate. In so determining, the Commissioner pointed out that in light of the fact that the 90-day rule can be relaxed under certain circumstances that would result in injustice, the principle of equitable estoppel does not need to be applied here. Accordingly, the petition was dismissed.

<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>

April 5, 2018

MARTINA GODBOLT, :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 STATE-OPERATED SCHOOL DISTRICT : DECISION
 OF THE CITY OF CAMDEN, :
 CAMDEN COUNTY, :
 :
 RESPONDENT. :

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

Upon review of the record in this matter, the Commissioner concurs with the Administrative Law Judge’s (ALJ) determination that the petition of appeal was not time barred under *N.J.A.C. 6A:3-1.3(i)*.¹ *N.J.A.C. 6A:3-1.3(i)* prescribes that an appeal to the Commissioner must be filed “no later than the 90th day from the date of the receipt of the notice of a final order, ruling or other action by the district board of education which is the subject of the requested contested hearing.” The 90-day rule “provides a measure of repose, an essential element in the proper and efficient administration of the school laws.” *Kaprow v. Board of Education of Berkeley Tp.*, 131 *N.J.* 572, 582 (1993).

The petitioner, a non-tenured teacher, was informed by the District in May 2015 that her contract was not being renewed for the 2015-2016 school year because she did not have the required certificate, and for other good cause. Although the petitioner was informed in May 2015

¹ The Commissioner does not agree with the ALJ’s determination that the principle of equitable estoppel is applicable to this matter. For purposes of the 90-day rule, the first step in the analysis is whether the petition was filed within 90 days after the receipt of notice of the Board’s decision. If it is determined that a petition was filed outside the 90-day period, then it is appropriate to consider whether the application of the 90-day rule should be relaxed “where strict adherence thereto may be deemed inappropriate or unnecessary or may result in injustice.” *Kaprow, supra*, 131 *N.J.* at 582. In light of the fact that the 90-day rule can be relaxed under certain circumstances that would result in injustice, the principle of equitable estoppel does not need to be applied.

that her contract was not going to be renewed, it was not until December 2, 2015 that she received notice from the District that she was not going to be reinstated despite the fact that she had acquired the requisite certificate.² The petitioner then filed the petition of appeal on February 25, 2016, challenging the District's decision not to reinstate her and seeking reimbursement for unpaid wages. Therefore, applying the most lenient trigger date of December 2, 2015 for purposes of the 90-day rule, the Commissioner finds that the petition of appeal was timely filed.

The Commissioner is also in accord with the ALJ's determination – for the reasons stated in the Initial Decision – that the petitioner is not entitled to unpaid wages from September 1, 2015 to November 4, 2015, when petitioner began teaching at a charter school. It is well recognized that local boards of education have “virtually unlimited discretion in hiring or renewing non-tenured teachers.” *Dore v. Board of Educ. of the Twp. of Bedminster*, 185 N.J. Super. 447, 453 (App. Div. 1992). The District's non-renewal of the petitioner in May 2015 was certainly within its discretion and there is no evidence to suggest that its decision was arbitrary, capricious, or unreasonable. Therefore, the District was not obligated to reinstate the petitioner when she acquired her certificate or to reimburse the petitioner for unpaid wages between September 1, 2015 and November 4, 2015. Accordingly, the petition of appeal is hereby dismissed.

IT IS SO ORDERED.³

ACTING COMMISSIONER OF EDUCATION

Date of Decision: April 5, 2018

Date of Mailing: April 5, 2018

² The timeline of events that occurred in this matter are fully outlined in the Initial Decision.

³ 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*).



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

ON MOTION TO DISMISS

OAL DKT. NO. EDU 04270-16

AGENCY DKT. NO. 59-2/16

MARTINA GODBOLT,

Petitioner,

v.

**STATE-OPERATED SCHOOL DISTRICT
OF THE CITY OF CAMDEN, CAMDEN COUNTY,**

Respondent.

Christopher A. Gulla, Esq., for petitioner (Zeller & Wieliczko, LLP, attorneys)

Louis R. Lessig, Esq., for respondent (Brown & Connery, attorneys)

Record Closed: January 30, 2018

Decided: February 22, 2018

BEFORE **PATRICIA M. KERINS, ALJ:**

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioner Martina Godbolt (Godbolt) challenges the non-renewal of her employment by respondent, the State-Operated School District of the City of Camden (Camden), on the grounds that she failed to produce an appropriate certificate, and for other good cause. She seeks reimbursement for wages from September 1, 2015, to

November 4, 2015. Her petition was filed with the Department of Education's Bureau of Controversies and Disputes on February 25, 2016. The matter was transmitted to the Office of Administrative Law (OAL) on March 18, 2016, for a hearing as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13. Camden has filed a motion to dismiss in lieu of answer on two grounds. Camden contends that Godbolt did not file her appeal within ninety days, and that the petition fails to state a valid claim for relief.

FACTUAL DISCUSSION

This matter arises out of Camden's decision not to renew Godbolt's teaching contract for "failure to produce an appropriate certificate . . . and other good cause." Godbolt began working in the Camden district at Forest Hill Elementary School in November 2012. At that time, she had a Certificate of Eligibility with Advanced Standing. During the 2012–13 school year, Godbolt completed the requirements of the Provisional Teacher Process to qualify for a Standard Certificate.

The Department of Education (DOE) requires that the school district submit the paperwork necessary to obtain a Standard Certificate through the Provisional Teacher Process (PTP) to the PTP Office for review. Although she had completed the necessary certification requirements, Camden failed to submit the necessary paperwork for Godbolt to receive a Standard Certificate. In May 2015, Godbolt learned that her Standard Certificate had not been issued when she was notified that she would be receiving a notice of non-renewal. On May 11, 2015, Godbolt received the official notice of her non-renewal.

Also on May 11, 2015, Godbolt met with Camden's certification specialist, Tameeka Mason (Mason). Godbolt was told that Camden had to submit further forms for her to qualify for the Standard Certificate. On May 27, 2015, Mason represented to Godbolt that "the Forms would be submitted to the DOE and that the May 11, 2015 Non-Renewal Notification letter would likely be rescinded once [Godbolt] was issued a Standard Certificate." (Verified Petition of Appeal at 7.) Over the next few months,

Godbolt met with various Camden employees to get assistance in acquiring the Standard Certificate. Godbolt relied on this assistance under the assumption that once she received the Standard Certificate she would continue employment with Camden.

Camden representatives continued to assist Godbolt in the process of obtaining her standard certificate, and she was issued a Standard Certificate on October 27, 2015. On October 30, 2015, through her attorney, Godbolt sent a letter to Louis R. Lessig, labor counsel for Camden, demanding reinstatement and unpaid wages from the beginning of the 2015–16 school year. On November 4, 2015, Godbolt secured employment with Camden Community Charter School.

On December 2, 2015, Godbolt received a letter from Camden’s counsel denying her requests for reinstatement and lost wages. This letter “was the first time that the District responded to [Godbolt’s] continued inquiries regarding the District’s mishandling of the necessary forms and . . . addressed the District’s position regarding [Godbolt’s] termination.” (Pet’r’s Br. at 2–3.) Godbolt was not aware of Camden’s intent not to rehire her until she received this letter.

On February 25, 2016, Godbolt filed a Petition of Appeal seeking reimbursement for wages from September 1, 2015, to November 4, 2015. On March 16, 2016, Camden filed a motion to dismiss in lieu of an answer on the grounds that Godbolt failed to file a petition in a timely manner, and that she failed to set forth a cause of action upon which relief can be granted.

LEGAL DISCUSSION

Camden asserts that Godbolt’s petition should be dismissed because she did not file a challenge to its action within ninety days of receiving notice of her non-renewal.

In New Jersey, if a board of education decides not to renew the contract of a non-tenured teacher, the teacher must receive written notice of the decision from the chief school administrator by May 15 of current school year. N.J.S.A. 18A:27-10(b). If

the teacher wants to contest the decision of the board, the teacher must file a petition “no later than the 90th day from the date of receipt of the notice of a final order, ruling, or other action by the district board of education, individual party, or agency, that is the subject of the requested contested case hearing.” N.J.A.C. 6A:3-1.3(i).

The Supreme Court of New Jersey addressed what is considered adequate notice to begin the ninety-day time limit for filing a petition in Kaprow v. Board of Education of Berkeley Township, 131 N.J. 572, 587 (1993), stating that “notice must be sufficient to inform an individual of some fact that he or she has a right to know and that the communicating party has a duty to communicate.” The Court further noted that

[w]hen a plaintiff knows or has reason to know that he has a cause of action against an identifiable defendant and voluntarily sleeps on his rights so long as to permit the customary period of limitations to expire, the pertinent considerations of individual justice as well as the broader considerations of repose, coincide to bar his action.

[Kaprow, 131 N.J. at 587 (quoting Farrell v. Votator Div., 62 N.J. 111, 115 (1973)).]

Other considerations cited by the Court include that a “notice requirement should effectuate concerns for individual justice by not triggering the limitations period until . . . teachers have been alerted to the existence of facts that may equate in law with a . . . cause of action.” Ibid.; see Burd v. New Jersey Tel. Co., 76 N.J. 284, 291 (1978). “At the same time, it should further considerations of repose by establishing an objective event to trigger the limitations period in order ‘to enable the proper and efficient administration of the affairs of government.’” Kaprow, 131 N.J. at 587 (quoting Borough of Park Ridge v. Salimone, 21 N.J. 28, 48 (1956)).

A review of the facts in Kaprow is relevant to the analysis in the within matter. There, a tenured administrator became aware that his position was being terminated and that non-tenured employees were hired to perform his duties. The administrator received formal notice only when the secretary of the local board informed him that two positions to which he claimed tenure rights had been filled by non-tenured employees.

The administrator sent letters to the board attempting to negotiate and get clarification on his employment. The board did not respond to the letters, and the ninety-day time limit to bring a claim expired.

The administrator claimed that the ninety-day period never began because he did not receive adequate notice from the board of his termination. The Court found that the administrator's attempt to resolve his claim through negotiations with the local board was irrelevant and did not negate the fact that he received adequate notice when he spoke to the secretary, nor did it toll the running of the limitations period. The Court reasoned that “[t]o insist under these circumstances that there be additional or more-specific notice will not further the objectives of the regulatory scheme, and would only defeat the considerations of repose and interfere with the efficient administration of the school laws.” Kaprow, 131 N.J. at 589.

Here, Godbolt received formal notice from Camden that her contract was not being renewed for failure to produce an appropriate certificate and other good cause on May 11, 2015. While that notice was adequate to inform Godbolt of any cause of action she may have had against Camden as a result of her non-renewal, absent misleading action by Camden, the ninety-day period would begin to run from May 11, 2015. However, unlike Kaprow, the principal of equitable estoppel is applicable to this matter. Camden representatives led Godbolt to believe that she would be reinstated once she received a Standard Certificate. On May 27, 2015, Mason, the District's certification specialist, represented to Godbolt that the non-renewal would likely be rescinded once Godbolt was issued a Standard Certificate. Camden representatives continued to assist Godbolt in obtaining the Standard Certificate until it was issued on October 27, 2015. Godbolt then sent a letter requesting reinstatement on October 30, 2015. The District did not respond until December 2, 2015. Thus, Godbolt found out that she was not being reinstated despite obtaining the Standard Certificate in the letter from Camden on December 2, 2015.

Godbolt filed her petition of appeal on February 25, 2016. Thus, her petition was filed within ninety days of her receiving notice that she would not be reinstated.

Because Camden led Godbolt to believe she would be reinstated upon receiving a Standard Certificate, and she reasonably relied on its representatives, the ninety-day time period was relaxed, and the petition was timely filed.

In this matter, however, Camden further contends that even if the petition was timely filed, Godbolt was never entitled to reinstatement, and therefore not entitled to reimbursement of wages.

A non-tenured teacher must be given notice of a District's decision not to renew her contract by May 15 of the current school year. N.J.S.A. 18A:27-10(b). Here, Godbolt was notified on May 11, 2015, that her contract was not being renewed for the 2015–16 school year.

Local boards have “virtually unlimited discretion in hiring or renewing nontenured teachers.” Dore v. Twp. of Bedminster Bd. of Educ., 185 N.J. Super. 447, 453 (App. Div. 1982). “[A]bsent constitutional constraints or legislation affecting the tenure rights of teachers, local boards of education have an almost complete right to terminate the services of a teacher who has no tenure and is regarded as undesirable by the local board.” Id. at 456. Discretionary decisions of the local board will only be vacated where the board acts in an arbitrary, capricious, or unreasonable manner. Kopera v. W. Orange Bd. of Educ., 60 N.J. Super. 288, 294 (App. Div. 1960). The petitioner has the burden of proving that the underlying reasons for the board's actions are improper. Bigart v. Paramus Bd. of Educ., 1979 S.L.D. 123, 133.

Dore, 185 N.J. Super. 447, is the leading case on the issue of a board's responsibilities regarding non-renewal of non-tenured teachers. In Dore, the court reversed a Commissioner's decision to reinstate the teacher because the board was not required to state reasons for non-renewal. Dore, 185 N.J. Super. at 456–57. The court went on to assert that N.J.S.A. 18A:27-3.2 “‘urges’ local boards of education to give reasons to employees who are being terminated,” but the statute provides no penalties for a board's failure to comply. Ibid. Therefore, a board is not required to prove its

reasons for non-renewal of a non-tenured teacher. Procopio v. Wildwood Bd. of Educ., 1975 S.L.D. 805, 816.

Here, Godbolt's contract was not renewed for failure to produce an appropriate certificate and other good cause. Godbolt argues that she was qualified for an appropriate certificate, but Camden failed to fulfill its obligation to submit Godbolt's paperwork to the DOE so that she could be certified. N.J.A.C. 6A:9B-8.6(c). Because it was Camden's fault that Godbolt was not certified, and Godbolt subsequently became certified, Godbolt claims that she was entitled to reinstatement in the District.

However, Camden also decided not to renew Godbolt's contract for "other good cause." Godbolt has not claimed that Camden violated any constitutional rights or legislation involving tenure rights. N.J.A.C. 6A:9B-8.6(c) does not involve tenure rights of teachers. This regulation only concerns procedures for evaluating a provisional teacher for a Standard Certificate. N.J.A.C. 6A:9B-8.6(c). Because there are no constitutional or tenure rights asserted, Camden has almost a complete right to terminate Godbolt.

While N.J.S.A. 18A:27-3.2 urges a district to provide reasons for nonrenewal, the statute does not provide any penalties if a district does not comply. Therefore, Camden may decide not to renew Godbolt by stating "other good cause," and the burden is on Godbolt to prove that this decision was arbitrary, capricious, or unreasonable. Although Godbolt has shown that it would be unreasonable to not renew her due to the lack of a Standard Certificate, she has not shown that Camden did not have other good cause. Thus, Godbolt has not overcome her burden and she has not shown that she was entitled to reinstatement for the 2015–16 school year. Because she was not entitled to reinstatement, she is not entitled to unpaid wages from September 1, 2015, to November 4, 2015.

Here, Godbolt reasonably relied on Camden's representations that she would be reinstated upon receipt of a Standard Teaching Certificate, so her petition is not time-barred by the ninety-day time limit. However, Camden's non-renewal of Godbolt's

contract was within its discretion, so she is not entitled to unpaid wages from September 1, 2015, to November 4, 2015.

ORDER

Camden's motion to dismiss for failure to file within the ninety-day period is **DENIED**, but the motion to dismiss for failure to state a claim is **GRANTED**.

I hereby **FILE** this initial decision with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

This recommended decision may be adopted, modified or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Commissioner of the Department of Education does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION, ATTN: BUREAU OF CONTROVERSIES AND DISPUTES, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.



February 22, 2018
DATE

PATRICIA M. KERINS, ALJ

Date Received at Agency:

February 22, 2018 (emailed)

Date Mailed to Parties:

PMK/mel