



STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION

In the Matter of Jason Skillern

CSC Docket No. 2015-2742
OAL Docket No. CSV 8307-15

REMAND TO THE OFFICE OF
ADMINISTRATIVE LAW

ISSUED: **OCT 20 2016**

The appeal of Jason Skillern, a Custodian with the Newark School District, of his 10 working day suspension, on charges, was considered by Administrative Law Judge Caridad F. Rigo (ALJ), who rendered her initial decision on August 18, 2016, recommending acknowledging the settlement of the parties.

Having considered the record and the ALJ's initial decision, and having made an independent evaluation of the record, the Civil Service Commission (Commission), ordered that this matter be remanded to the Office of Administrative Law (OAL) for a hearing on the merits.

DISCUSSION

The settlement agreement provides, in pertinent part, that: "Appellant understands that he may rescind this Agreement within seven (7) calendar days of signing it, and such rescission must be in writing and delivered to counsel for the District either by hand or by certified mail within the seven-day period." The agreement was signed by Skillern on August 16, 2016.

Subsequently, Skillern provided the Commission with a copy of a letter, dated August 22, 2016, addressed to the appointing authority's counsel stating that he would like to "withdraw" the settlement agreement and pursue the appeal of his suspension. No reply or objection was received by the Commission from the appointing authority.

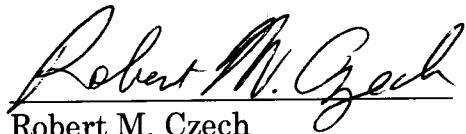
The policy of the judicial system strongly favors settlement, and this policy is

equally applicable in the administrative area. A settlement will not be set aside absent compelling circumstances. *Nolan v. Lee Ho*, 120 N.J. 465 (1990). However, in this case, it is clear that such compelling circumstances are present. Specifically, the terms of the settlement explicitly allowed Skillern to rescind the agreement under certain conditions, all of which he appeared to satisfy. Further, no objection has been received from the appointing authority. Accordingly, the Commission orders that this matter be remanded to the OAL for a hearing on the merits of Skillern's 10 working day suspension.

ORDER

The Commission orders that this matter be remanded to the Office of Administrative Law for further proceedings as set forth above.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 19TH DAY OF OCTOBER, 2016



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Nicholas F. Angiulo
Assistant Director
Division of Appeals and Regulatory Affairs
Unit H
Civil Service Commission
P.O. Box 312
Trenton, New Jersey 08625-0312

Attachment



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

SETTLEMENT

OAL DKT. NO. CSV 08307-15

AGENCY DKT. NO. 2015-2742

**IN THE MATTER OF JASON SKILLERN,
NEWARK PUBLIC SCHOOL DISTRICT.**

Vipin Varghese, Esq., for appellant Kevin Washington (Pitta & Giblin, LLP, attorneys)

Sabrina Styza, Esq., for respondent Newark Public School District

Record Closed: August 17, 2016

Decided: August 18, 2016

BEFORE **CARIDAD F. RIGO, ALJ**:

The Civil Service Commission transmitted this matter to the Office of Administrative Law (OAL) on June 4, 2015, for determination as a contested case. The parties agreed to a settlement of all issues in dispute and have prepared a Settlement Agreement, which is attached and fully incorporated herein.

Having reviewed the record and the settlement terms, I **FIND**:

1. The parties have voluntarily agreed to the settlement as evidenced by the signatures of the parties and/or their representatives.

- 2. The settlement fully disposes of all issues in controversy and is consistent with the law.

I **CONCLUDE** that this agreement meets the requirements of N.J.A.C. 1:1-19.1 and that the settlement should be approved. I approve the settlement and, therefore, **ORDER** that the parties comply with the settlement terms and that these proceedings be concluded.

I hereby **FILE** my initial decision with the **CIVIL SERVICE COMMISSION** for consideration.

This recommended decision may be adopted, modified or rejected by the **CIVIL SERVICE COMMISSION**, which by law is authorized to make a final decision in this matter. If the Civil Service Commission 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.

August 18, 2016 _____
DATE

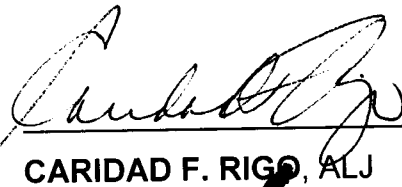
Date Received at Agency:

8-23-16

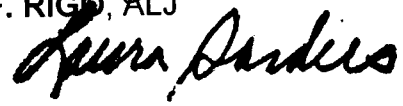
Date Mailed to Parties:

lr
attachment

AUG 23 2016



CARIDAD F. RIGO, ALJ



DIRECTOR AND
CHIEF ADMINISTRATIVE LAW JUDGE

4. Except for the three (4) days of back pay that Appellant will receive, Appellant will not receive any further back pay or any additional monies from the District as part of this Settlement Agreement.
5. This Agreement shall not constitute a precedent in any matters involving other employees.
6. Appellant waives all claims of any nature, either known or unknown, against Respondent with regard to this matter including fees, back pay, front pay or any other monetary relief.
7. In exchange for the good consideration set forth in Paragraph 3 above, the sufficiency of which is hereby acknowledged by the parties, Appellant releases and discharges the District, its Advisory Board of Education and its Advisory Board Members, State District Superintendent and any and all other officers, employees, agents, representatives, successors and assigns of the District (the "Released Parties") with respect to all claims or rights that he may have against the District and the Released Parties relating to his employment with the District up to this point in time. This includes, without limitation the waiver of any and all claims, charges, or demands, known or unknown, that have arisen or that may arise relating to Appellant's employment with the District up to this point, including but not limited to any and all rights or claims he may have regarding discrimination on any basis, or any federal or state civil rights law, or any alleged violation under Title VII of the Civil Rights Act of 1964, as amended; the Age Discrimination in Employment Act; the Older Workers Benefit Protection Act; the Americans with Disabilities Act; the Equal Pay Act; the Americans with Disabilities Act; the Rehabilitation Act; the Employment Retirement Income Security Act of 1974, as amended; the New Jersey Law Against Discrimination; the Conscientious Employee Protection Act; the Fair Labor Standards Act; the National Labor Relations Act; the Family Leave Act or Family Medical Leave Act; the New Jersey Wage and Hour Law; the retaliation provisions of the New Jersey Workers' Compensation Law (and including any and all amendments to the above), the United States Constitution, the New Jersey Constitution and/or any other federal, state, or local statute or common law relating to employment, wages, hours, or any other terms and conditions of employment and/or termination of employment as well as any other alleged violations of any federal, state or local law, regulation or ordinance, and/or contract or implied contract or collective bargaining/contractual claim or tort law or public policy or whistleblower claim, having any bearing whatsoever on his employment with the District, including but not limited to, any claim for wrongful discharge, back pay, front pay, vacation pay, sick pay, wage, commission or bonus payment, attorneys' fees, costs and/or future wage loss, except for workers compensation claims. Appellant agrees to hold harmless and indemnify the District and the Released Parties for any costs or expenses associated

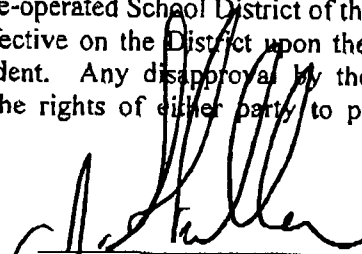
with the enforcement of this Settlement Agreement and the covenants and representations contained therein should same become necessary.

8. Notwithstanding Paragraph 7 of this Settlement Agreement, it is understood by the parties that Appellant is not waiving his rights to workers compensation claims. Further, it is also understood and agreed that the parties are not prohibited from communicating with or participating in any administrative proceeding before the United States Department of Labor, the Equal Employment Opportunity Commissioner, or any other federal, state or local law agency. Should any entity, agency commission or person file a charge, action, complaint or lawsuit against the District based upon any of the above-released claims in Paragraph 7, Appellant agrees not to seek or accept any resulting relief whatsoever.
9. To comply with the Older Workers Benefit Protection Act of 1990, if applicable, this Agreement advises Appellant of the legal requirements of the Act, and fully incorporates the legal requirements by reference into this Agreement. Accordingly, by executing this Agreement, Appellant acknowledges that he: (i) fully understands the terms and conditions of this Agreement; (ii) has consulted with an attorney to review the Agreement; (iii) specifically waives his right to pursue any current claims he may have under the Age Discrimination in Employment Act; (iv) has been given time within which to consider this Agreement; and (v) has seven (7) days from the date of the execution of this Agreement to revoke it. Appellant understands that he may rescind this Agreement within seven (7) calendar days of signing it, and such rescission must be in writing and delivered to counsel for the District either by hand or by certified mail within the seven-day period.
10. Nothing in this Settlement Agreement shall be deemed to be an admission of liability on behalf of either party. This Settlement Agreement shall not constitute a precedent in any matters involving other employees.
11. Appellant understands, agrees to and acknowledges that he is bound by this Release. Anyone who succeeds to Appellant's rights and responsibilities, such as Appellant's heirs or the executors of Appellant's estate, are also bound. This Settlement Agreement is made for the benefit of the Appellant and the District and all who succeed to their rights and responsibilities.
12. If any provision or portion of a provision of this Settlement Agreement is held by the Civil Service Commission or a court of competent jurisdiction or determined under applicable federal or state law to be invalid, void, or unenforceable, the remaining provisions or portions of the affected provision will remain and continue in full force and effect.
13. The parties respectively acknowledge that counsel has advised them regarding this Settlement Agreement and that each is signing this

Settlement Agreement freely and voluntarily, without duress, coercion, or pressure from the other party.


- 14. Appellant agrees that he has been fully and fairly represented by his Union, International Union of Operating Engineers Local 68.
- 15. This Settlement Agreement constitutes the full agreement between the parties and shall be construed and enforced in accordance with New Jersey Law.
- 16. This Settlement Agreement is subject to the approval of the State District Superintendent of the State-operated School District of the City of Newark and will only become effective on the District upon the approval of the State District Superintendent. Any disapproval by the Superintendent shall not interfere with the rights of either party to pursue the matter further.

Dated: 8/14/16




 JASON SKILLERN
 Appellant

Dated: 8/16/16



 VIPIN VARGHESE, ESQ.
 Attorney for Appellant

Dated: 8/16/16




 SAL COSTANZA,
 IUOE Local 68

Dated: 8/16/16



 CHRISTOPHER CERF
 State District Superintendent

Dated: 8/17/16



 SABRINA STYLA, ESQ.
 Attorney for Respondent

CERTIFICATION

I, NEIL CRAWFORD, being the moving party in this matter, hereby certify that I have reviewed this Settlement Agreement and fully understand its meaning and terms. I acknowledge that my representative questioned my understanding and verified my acceptance of the terms of this Settlement Agreement. I am satisfied with my representation and I enter into this Settlement Agreement voluntarily.

I also understand that if this Settlement Agreement is approved by the Civil Service Commission, my claim against Respondent will terminate.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

DATED: _____

8/16



JASON SKILLERN

Date: August 22, 2016

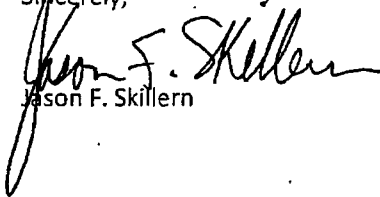
To: Sabrina Styza
NPS Legal Department

From: Jason F. Skillern
Custodian

Re: 10 day suspension appeal

I, Jason F. Skillern, withdraw the settlement agreement. I am pursuing my appeal for the 10 day suspension I received in April 2015.

Sincerely,



Jason F. Skillern

cc. Civil Service Commission