

#149-11 (OAL Decision: Not yet available online)

LENORE DOUGLAS, :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
BOROUGH OF CARTERET, :
MIDDLESEX COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioner’s position as an Educational Media Specialist was eliminated – along with all other media specialists throughout respondent’s district – in a reduction in force (RIF) at the end of the 2009-2010 school year. Petitioner holds both an educational services certificate, under which she was employed by respondent Board, and an instructional certificate with an endorsement as an elementary school teacher. She did not contest the RIF, but asserted that – by virtue of having taught students in her former school about the Bill of Rights and the Civil War over a period of approximately six weeks during her tenth year as a librarian – she has bumping rights over non-tenured employees holding instructional certificates with the elementary endorsement.

The ALJ found that: petitioner’s testimony was not credible; during her tenure career in the Carteret school district, petitioner served as an educational media specialist and was not required to teach any subjects to elementary school students; petitioner failed to present any documentary evidence to support her claim that she was instructed to teach the Bill of Rights and the Civil War to grades K-4 students over a six week period during the 2009-2010 school year; although petitioner would certainly have tenure and bumping rights pursuant to her educational services certificate, she does not have bumping rights attached to her instructional certificate because she has never worked under the auspices of that teaching certificate; and petitioner is a tenured librarian, but not a tenured teacher. The ALJ denied petitioner’s appeal and dismissed the case.

Upon a thorough and independent review of the record, the Commissioner adopted the Initial Decision of the OAL as the final decision in this matter.

<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 12, 2011

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. Petitioner’s exceptions – filed on March 16, 2011 in response to an Initial Decision mailed on March 2, 2011 – were untimely pursuant to *N.J.A.C. 1:1-18.4* and, therefore, were not considered herein.¹

Upon full consideration, the Commissioner concurs with the ALJ – for the reasons clearly presented in his Initial Decision – that petitioner does not have bumping rights over non-tenured elementary school teachers with instructional certificates.

Accordingly, the recommended decision of the OAL is adopted as the final decision in this matter and the instant petition of appeal is hereby dismissed.

IT IS SO ORDERED.²

ACTING COMMISSIONER OF EDUCATION

Date of Decision: April 12, 2011

Date of Mailing: April 12, 2011

¹ Counsel’s faxed submission on behalf of petitioner states “[a]lthough the decision of the ALJ indicates that it was mailed to me on March 2, 2011, it was not delivered until Monday, March 7, 2011.” As counsel – who is not a novice in this forum – should be well aware, the 13-day regulatory period for the filing of exceptions commences running with the mailing of the Initial Decision to the parties; the date the parties received such decision is of no import pursuant to this rule. Additionally, counsel’s 24-page faxed submission included a copy of his 21-page post hearing brief before the Administrative Law Judge (ALJ). Parties are hereby reminded that all briefs submitted before the ALJ are already a part of the record before the Commissioner and, therefore, submission of duplicate copies is unnecessary.

² 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*).