

#218-11

IN THE MATTER OF THE TENURE :
HEARING OF SYLVIA ALEMAN : COMMISSIONER OF EDUCATION
SCHOOL DISTRICT OF UNION CITY, : DECISION
HUDSON COUNTY. :

SYNOPSIS

Petitioning Board filed tenure charges of excessive absenteeism and other just cause against respondent, a tenured custodian, 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 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 and dismissed the respondent from her tenured position in the district as of the date of this decision.

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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June 14, 2011

AGENCY DKT NO. 106-5/11

IN THE MATTER OF THE TENURE :
HEARING OF SYLVIA ALEMAN : COMMISSIONER OF EDUCATION
SCHOOL DISTRICT OF UNION CITY, : DECISION
HUDSON COUNTY. :

For the District, Elsie DiNardo, Esq., Office of Susanne Lavelle, Esq.

No appearance by or on behalf of Sylvia Aleman

This matter was opened before the Commissioner of Education on May 6, 2011 through the certification of tenure charges of excessive absenteeism and other just cause by the School District of Union City against Sylvia Aleman, a tenured custodian in the District.

By notice dated May 6, 2011, the Commissioner directed respondent, via both certified and regular mail – the certified copy having been signed for on May 11, 2011 – to file an Answer to the tenure charges against her. 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 day 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 by the charged employee. Because no reply has been received from respondent – or any attorney on her behalf – in response to the District’s charges, each count of the charges against respondent is deemed to be admitted.

The Commissioner has reviewed the tenure charges certified against respondent by the District, *i.e.*, excessive absenteeism and other just cause (insubordination, disobedience, job abandonment and unsatisfactory job performance), and the statement of evidence in support of those charges.

Deeming such charges to be admitted, and noting that respondent has failed to respond to the allegations against her, the Commissioner finds that the District has demonstrated that respondent is guilty of excessive absenteeism and other just cause, warranting dismissal from her tenured position.

Accordingly, summary decision is hereby granted to the District, and respondent Sylvia Aleman is dismissed from her tenured custodian position in the District's employ as of the date of this decision.

IT IS SO ORDERED.¹

ACTING COMMISSIONER OF EDUCATION

Date of Decision: June 14, 2011

Date of Mailing: June 15, 2011

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).