

#123-15 (OAL Decision: Not yet available online)

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

SYNOPSIS

Petitioner – employed for many years as a teacher in respondent’s school district, prior to her promotion to the position of “acting vice principal” in April 2011 – filed an appeal asserting that her tenure status gave her entitlement to other vice principal positions in the district after her position was eliminated in a reduction in force (RIF) in June 2013. Petitioner contended that the district later hired non-tenured candidates for vice principal positions at other district schools, and claimed she should have been offered one of these position because of her tenure status. The respondent filed a motion for summary decision, asserting that petitioner had never earned tenure in the position of vice principal. Petitioner never filed an answer to the respondent’s motion.

The ALJ found, *inter alia*, that: there are no material facts at issue herein, and the matter is ripe for summary decision; petitioner has been employed by the Board since 1998, but was only promoted to the position of vice principal in April 2011; petitioner did not obtain the necessary provisional certificate for the position of vice principal until May 2012; petitioner’s vice principal position was eliminated as part of a RIF in June 2013; petitioner did not complete the requirements for tenure in the position of vice principal, as she did not serve the required two year residency. Accordingly, the ALJ granted the Board’s motion for summary decision and dismissed the case.

Upon comprehensive review, the Commissioner concurred with the ALJ’s determination that the petitioner has not proven the allegations in her appeal. Accordingly, the summary decision was granted to the respondent and 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 2, 2015

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The controversy now before the Commissioner was instituted by way of a petition alleging that petitioner’s tenure rights were violated when respondent abolished the vice-principal position she had held, reassigned her to a teaching position, and hired “less senior” personnel to serve in vice-principal positions in other district schools. Respondent answered by way of a motion for summary decision, which motion petitioner never answered.

In its motion, respondent alleged that petitioner had never earned tenure in the position of vice-principal. More specifically, respondent contended that although petitioner had been issued a provisional certificate in May of 2012 -- which allowed her to serve as a vice-principal – she did not complete the two-year “residency” which is a prerequisite to earning a standard certificate. *See, N.J.A.C. 6A:9-12.5(d)*. In fact, she served only one year in the position after she obtained her provisional certificate, which is insufficient to obtain tenure. *See, N.J.S.A. 18A:28-6; Spiewack v. Board of Educ. of Rutherford, 90 N.J. 63, 73 (1982)*. Having earned no tenure in the vice-principal position in respondent’s district, petitioner had no greater rights to obtain open vice-principal positions than did other qualified, non-tenured applicants.

Taking the facts set forth in the petition as true, and noting that no papers were submitted by petitioner to rebut the facts recited in respondent's motion, the Administrative Law Judge (ALJ) assigned to the case in the Office of Administrative Law (OAL) found that the facts supported respondent's position that petitioner had never completed the requirements for standard certification for the position of vice-principal as she had served in the position only one year after obtaining her provisional certificate. Thus, she had not achieved tenure in that position and could not claim the benefits which attend same. The ALJ concluded that respondent was entitled to summary disposition, and the petition should be dismissed.

Upon review of the record and Initial Decision of the OAL, the Commissioner concurs that petitioner has not proven the allegations in her appeal. Accordingly, summary disposition is granted to respondent and the petition is dismissed with prejudice.

IT IS SO ORDERED.¹

COMMISSIONER OF EDUCATION

Date of Decision: April 2, 2015

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¹ This decision, as the final decision of the State administrative agency, may be appealed to the Superior Court, Appellate Division pursuant to *N.J.S.A.* 18A:11-3 and *N.J.A.C.* 6A:3-7.6.