

#145-13

IN THE MATTER OF THE TENURE :
HEARING OF ROBERT MAYS, : COMMISSIONER OF EDUCATION
SCHOOL DISTRICT OF JERSEY CITY, : DECISION
HUDSON COUNTY. :

SYNOPSIS

Petitioning Board filed tenure charges of conduct incapacity, unbecoming conduct, and neglect of duty against respondent, a tenured teacher, and sought to terminate his employment with the district. Neither respondent nor any attorney acting on his 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, pursuant to *N.J.A.C.* 6A:3-5.4(h), the allegations – which respondent has chosen not to deny – may be deemed admitted and are sufficient to warrant termination of the respondent from his tenured position. Accordingly, the Commissioner granted summary decision to the petitioner, dismissed the respondent from his tenured position in petitioner’s school district, and forwarded a copy of this decision to the State Board of Examiners for review and action as that body deems appropriate.

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.

April 18, 3013

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HEARING OF ROBERT MAYS, : COMMISSIONER OF EDUCATION
SCHOOL DISTRICT OF JERSEY CITY, : DECISION
HUDSON COUNTY. :

For the District, Jennifer Shaw, Florio, Perrucci, Steinhardt & Fader

No appearance by or on behalf of Robert Mays

This matter was opened before the Commissioner of Education on March 4, 2013 through the certification of tenure charges of incapacity, unbecoming conduct, and neglect of duty based on chronic and excessive absenteeism and tardiness against Robert Mays – a tenured teacher in the District – by the School District of Jersey City.

By notice dated March 5, 2013, the Commissioner advised the District this matter would not move forward until the Agency received proof of service of these charges on the respondent. By letter dated March 14, 2013, the District advised that they had served respondent on March 4, 2013. Such proof must have inadvertently been omitted from its filing and was included with the March 14 letter. On March 18, 2013, the parties were sent a Revised Acknowledgement advising that the required proof of service had been received and respondent was directed, via both certified and regular mail, to file an Answer to the tenure charges against him.¹ 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

¹The certified mail copy was returned to the Agency as unclaimed.

shown – result in the charges being deemed admitted by the charged employee. No reply was received from respondent or any attorney on his behalf.

The Commissioner has reviewed the tenure charges certified against respondent by the District – *i.e.*, unbecoming conduct, neglect of duty based on chronic absenteeism and tardiness, and incapacity – along with the statement of evidence in support of those charges. The District charges that Mr. Mays has been absent from his duties nearly 123 days and tardy 37 times during the course of his six year employment with the District, which has caused an adverse impact on the continuity of the educational process for District students. Further, it charges that he has been absent from his duties over 46 days during the first four months of the current school year alone.

Deeming the allegations to be admitted and noting that respondent has failed to respond to the charges certified against him, the Commissioner finds that the District has demonstrated that respondent is guilty of unbecoming conduct, neglect of duty and incapacity, warranting dismissal from his tenured position.

Accordingly, summary decision is hereby granted to the District, and respondent Robert Mays is dismissed from his tenured teaching position in the District's employ as of the date of this decision. A copy of this decision is being forwarded to the State Board of Examiners for action as that body deems appropriate.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: April 18, 2013

Date of Mailing: April 18, 2013

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).