

STATE BOARD OF EDUCATION

STATE OF GEORGIA

LINDA R. BOSTICK, : CASE NO. 1978-22
: :
Appellant, : :
: :
vs. : :
: :
DEKALB COUNTY BOARD OF : :
EDUCATION, : REPORT OF
: :
Appellee. : HEARING OFFICER

PART I

SUMMARY OF CASE

The DeKalb County Board of Education (hereinafter "Local Board") denied Linda R. Bostick (hereinafter "Appellant") a hearing on the reasons for her demotion because she was not a tenured teacher. Appellant has appealed to the State Board of Education on the grounds that she was entitled to a hearing because her teaching contract for the fourth successive year had been offered to her. The hearing officer recommends that the decision of the Local Board be sustained.

PART II

FINDINGS OF FACT

A hearing was not held in this matter and the only evidence available for review are the documents and corres-

pondence submitted by Appellant as part of the record on appeal. There were no objections made as to the authenticity of the documents.

A review of the records submitted shows that Appellant was initially employed by the Local Board to teach during the 1975-1976 school year. She served continuously as an instructor and was teaching on a 250-day contract on April 14, 1978. On April 14, 1978, she was both notified by the superintendent that she would be reclassified from an instructor with 250-day annual schedule to an instructor with a 190-day annual schedule and she was given a contract dated April 14, 1978 which reflected a salary without any local supplements attached. On April 21, 1978, Appellant requested a written statement of reasons for her proposed reclassification and her attorney also made a request for written reasons for the proposed demotion and a hearing in accordance with the provisions of Ga. Code Ann. §32-2101c. On April 24, 1978, Appellant signed the contract and returned it to the school system. The chairman of the Local Board wrote to Appellant on May 18, 1978, and stated that a hearing would not be held because she had not completed three full school years of employment. Appellant then filed an appeal with the State Board of Education on June 12, 1978. The appeal requested that the decision of the Local Board be overturned and that Appellant be granted a hearing under

either Ga. Code Ann. §32-910 or Ga. Code Ann. §32-2101c.

The contract given to Appellant on April 14, 1978, was a standard form contract which provided:

". . .this document shall be regarded as an offer by the Teacher and shall be considered for acceptance only if signed by the Teacher and returned prior to April 28, 1978."

PART III

CONCLUSIONS OF LAW

Ga. Code Ann. §32-2103c provides:

"After a teacher . . . has been employed for three or more successive school years . . . then the nonrenewal of the contract of such teacher . . . or his demotion for the fourth or subsequent years shall be as provided by this section For purposes of this section, a teacher . . . shall be deemed to have been employed for three successive school years where the teacher . . . had already completed two years with the system and while serving under his third successive contract has his contract of employment renewed by the board of education for the fourth consecutive year."

The second sentence cited establishes three requirements that must be met:

- (1) The teacher must have completed two years with the system;
- (2) The teacher must have been serving under the third successive contract;
and

- (3) The contract of employment (for the fourth year) must have been renewed.

After these three conditions have been met, a teacher has a right to the protections referred to in the first sentence cited above. Each of the conditions must have been met before a teacher gains the right to have a hearing regarding either a demotion or a nonrenewal of contract.

In the instant case, even if it is assumed that Appellant satisfied the first two conditions and suffered a demotion, Appellant had not satisfied the third condition before she was demoted. In order to have satisfied the third condition, she would have had to have a renewal contract for the fourth year which did not reflect a demotion. If she had then been demoted she would be entitled to a hearing on the reasons for her demotion. She had not, however, had a 250-day contract renewed before she was offered a 190-day contract. In other words, her demotion occurred before she had completed the third requirement. As a result, she was not entitled to a hearing on the reasons for her demotion.

Appellant argues that the third requirement was met when the Local Board sent her the contract dated April 14, 1978. Aside from the fact that the contract provides that it constitutes an offer from the teacher and does not become effective until accepted by the Local Board, under Appellant's view, her demotion or proposed demotion was


effective when she signed the contract. Her demotion did not occur after her contract of employment was renewed by the Local Board for the fourth consecutive year. She had not, therefore, fulfilled the third requirement of Ga. Code Ann. §32-2103c and was not entitled to a hearing.

Appellant's argument, in effect, is that because she is now tenured, she has a right to a hearing to obtain reasons why she was demoted before she obtained tenure. Ga. Code Ann. §32-2103c does not require a Local Board to look back at the actions that took place before tenure was obtained. The statute is prospective in that it provides for hearings if a demotion or non-renewal occurs after tenure is obtained. This is no requirement to hold a hearing if the demotion occurs before tenure is obtained.

PART IV

RECOMMENDATION

Based upon the above findings and conclusions, the documents submitted, the briefs and oral argument of counsel, it is the opinion of the Hearing Officer that Appellant was not entitled to a hearing to question her demotion. She also is not entitled to a hearing under the provisions of Ga. Code Ann. §32-910. The Hearing Officer, therefore, recommends that the decision of the DeKalb County Board of Education be sustained.



L. O. BUCKLAND
Hearing Officer