

STATE BOARD OF EDUCATION

STATE OF GEORGIA

BERTHA JONES, :
Appellant, :
v. : CASE NO. 1982-13
MONTGOMERY COUNTY BOARD :
OF EDUCATION, :
Appellee. :

O R D E R

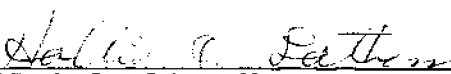
THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after a vote in open meeting,

DETERMINES AND ORDERS, that the Findings of Fact and Conclusions of Law of the Hearing Officer are made the Findings of Fact and Conclusions of Law of the State Board of Education and by reference are incorporated herein, and

DETERMINES AND ORDERS, that the decision of the Montgomery County Board of Education herein appealed from is hereby sustained.

Mr. Vann and Mrs. Oberdorfer were not present.

This 11th day of November, 1982.



HOLLIS Q. LATHEM
Acting Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

BERTHA JONES	:	
	:	
Appellant,	:	CASE NO. 1982-13
	:	
v.	:	REPORT OF
	:	HEARING OFFICER
MONTGOMERY COUNTY BOARD.	:	
OF EDUCATION,	:	
	:	
Appellee.	:	
	:	

PART I

SUMMARY OF APPEAL

This is an appeal by Bertha Jones (hereinafter "Appellant") from a decision by the Montgomery County Board of Education (hereinafter "Local Board") not to renew her contract as a librarian for the 1982-1983 school year on the grounds of insubordination and willful neglect of duties. The appeal was made on the grounds the evidence presented at the hearing before the Local Board did not show insubordination or willful neglect of duties. The Hearing Officer recommends that the decision of the Local Board be sustained.

PART II

FINDINGS OF FACT

On April 2, 1982, the Local Superintendent notified Appellant that he would not recommend renewal of her contract

for the 1982-1983 school year. Appellant requested a written statement of the reasons for her nonrenewal and requested a hearing before the Local Board. The Local Superintendent notified Appellant on May 18, 1982, that his recommendation was made because of insubordination and willful neglect of duties because she had failed to respond positively to the stipulations of her 1981-1982 contract and to instructions she had received from the principal and the Local Superintendent regarding the care and maintenance of the library in the elementary school where she served as librarian. The Local Board hearing was conducted on July 6, 1982, and the Local Board voted on the same day not to renew Appellant's contract. The appeal to the State Board of Education was made on July 30, 1982.

Appellant had served as the librarian for the previous five years. At the end of the 1981-1982 school year, her contract contained the added provision:

"You will be given assistance in getting the library in order (up-to-date and usable card catalog, all books on shelves, and all proper library procedures followed), after which you will be required to keep it in order or this contract will be subject to termination."

The principal explained the stipulation in the contract to Appellant and pointed out that the library was not being maintained in a proper condition. At the end of the school year, the Local Board employed an assistant who worked during

the summer to put the library in order and update the card catalog. When the assistant was finished, the library was in good condition so it could be used by the teachers and students of the school.

At the beginning of the 1981-1982 school year, the library was used by the students and teachers. Later, however, it again deteriorated. Books that were returned were not reshelved, new books received were not placed on the shelves, the library took on an appearance of disarray, and the card catalog was not usable. As a result, the students and teachers again were unable to use the library by the end of the 1981-1982 school year.

PART III

CONCLUSIONS OF LAW

In her appeal, Appellant set forth four grounds for error:

1. Her due process rights were violated;
2. The charges were not supported by the evidence;
3. The decision of the Local Board was arbitrary and capricious, and
4. There were errors in rulings on evidence made during the hearing.

Appellant's claim that she was deprived of due process arises from the fact that the Local Board did not make findings of fact and state conclusions of law. As detailed in Kelson v. Bd. of Public Education, Case no. 1982-15, the State Board of Education has not required local boards of education to

make findings of fact and state conclusions of law. The courts also have not imposed such a requirement. The Hearing Officer, therefore, concludes that the Local Board did not deny Appellant any of her due process rights by not stating findings of fact and conclusions of law.

Appellant did not brief or argue any errors in the rulings on evidence that were made during the hearing. The Hearing Officer, therefore, concludes that this basis for appeal was abandoned.

In support of her last two contentions, that the evidence did not support the charges and the decision of the Local Board was arbitrary and capricious, Appellant contends that the evidence shows that she made every effort to comply with the directives of the principal and the superintendent, but that she did not have any assistance, she was not provided the support which the school system recognized was needed, and she did not disobey any directives that were given to her.

The Local Board argues that there is evidence in the record to support the decision, and that under the "any evidence" rule, the State Board is bound to uphold the decision. Specifically, the Local Board points to the facts that Appellant's had the stipulation that she was required to maintain the library in an orderly manner and additional help was hired to place the library into usable condition for the beginning of the school year, but it went into a state of disarray under Appellant's charge in that the card catalog

was not completely updated, books were not put on shelves, the audio-visual room was not straightened up, and new books were not unboxed. The Local Board maintains that all of these actions show refusal to follow specific directions and also constitute willful neglect of duties. Additionally, the Local Board argues that Appellant was competent to perform the duties, and her failure to accomplish them constitutes willful neglect of her duties.

The record in this case does not show that Appellant refused to obey the directives of the principal and the superintendent. It is clear that she did not accomplish the tasks she was assigned, but it does not appear that she intentionally refused to follow the directives given to her. The Hearing Officer has not found any support for the proposition that mere failure to accomplish a given task constitutes insubordination. The Local Board has not pointed to any other evidence in the record to support the charge of insubordination. The Hearing Officer, therefore, concludes that Appellant was not insubordinate.

The remaining issue is whether there was willful neglect of duties. Appellant claims that she did not neglect her duties. She simply had so much work to do that it could not all be accomplished without assistance. The Local Board argues that Appellant was competent and, therefore, should have been able to accomplish the assigned tasks. The neglect of her duties was the reason the library went into a state

of disarray after it had been in satisfactory condition at the beginning of the school year.

The record does contain some evidence that Appellant neglected her duties. The duties assigned were no greater than those which other librarians were able to accomplish. Appellant attempted to obtain some books and some assistance, and now points to the Local Board's failure to supply these as the reason she was unable to accomplish her duties. The Local Board, however, did give Appellant assistance and the library was brought to a functional capacity. Given the level of condition Appellant permitted the library to fall and the level the other librarians were able to maintain, the Hearing Officer concludes that the Local Board could find that Appellant had willfully neglected her duties.

PART IV
RECOMMENDATION

Based upon the foregoing findings and conclusions, the record submitted, and the briefs and arguments of counsel, the Hearing Officer is of the opinion that there is evidence in the record which would permit the Local Board to find that Appellant willfully neglected her duties. The Hearing Officer, therefore, recommends that the decision of the Local Board be sustained.


L. O. BUCKLAND
Hearing Officer