

STATE BOARD OF EDUCATION

STATE OF GEORGIA

DAPHNE M. DIXON,

Appellant,

v.

HENRY COUNTY BOARD OF EDUCATION,

Appellee.

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CASE NO. 1985-18


ORDER

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 appeal from the decision of the Henry County Board of Education herein appealed from is hereby DISMISSED.

This 12th day of September, 1985.


LARRY A. FOSTER, SR.
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

DAPHNE M. DIXON,)	
)	
Appellant,)	
)	CASE NO. 1985-18
v.)	
)	
HENRY COUNTY BOARD)	
OF EDUCATION,)	
)	REPORT OF
Appellee.)	HEARING OFFICER

PART I

SUMMARY OF APPEAL

This appeal by Daphne M. Dixon (hereinafter "Appellant") is based upon the nonrenewal of Appellant's contract of employment as a teacher by the Superintendent of the Henry County School System. Appellant requested that the Henry County Board of Education (hereinafter "Local Board") grant her a hearing to hear a matter of local controversy, namely her nonrenewal, under O.C.G.A. §20-2-1160. The Local Board's attorney notified Appellant that the Local Board declined her request for a hearing because she had been employed for only one year and, therefore, was not entitled to a hearing under the provisions of O.C.G.A. §20-2-942. Appellant filed this appeal questioning whether O.C.G.A. §20-2-1160 requires the Local Board to convene as a tribunal to inquire into the circumstances surrounding her nonrenewal, alleging that the administrators employed by the Local Board failed to observe and evaluate

Appellant's classroom performance in violation of Local Board policy, the decision not to renew Appellant was arbitrary and capricious, and the Local Board abused its discretion. The Local Board maintains that, since no hearing was granted or required, the State Board of Education is without jurisdiction over the appeal. Appellee also contends the appeal should be dismissed for failure of Appellant to file a brief. The Hearing Officer recommends the appeal be dismissed.

PART II

FACTUAL SUMMARY

The record in this case consists of the Local Board's Professional Personnel Handbook, a copy of Appellant's personnel file, and minutes of a Local Board meeting, together with exchanges of correspondence between counsel for the parties. The record shows that Appellant was employed by the Local Board under a contract dated September 18, 1984. Appellant had no previous teaching experience, and, in fact, graduated from college in 1984. Appellant did not qualify for a regular teaching certificate but did qualify for a provisional certificate. She was notified that she would not be renewed for the 1985-86 school year. Through counsel, Appellant requested a hearing before the Local Board. The Local Board met May 21, 1985 and considered Appellant's request for a hearing and directed its attorney to notify Appellant she was not entitled

to a hearing. Counsel for the Local Board then notified Appellant that no hearing would be granted. By letter dated June 6, 1985, Appellant notified the Local School Superintendent that she intended to appeal to the State Board of Education the decision denying her a hearing and further requested a reconsideration under State Board Policy BCAEA. Appellant requested this appeal by letter dated June 18, 1985.

PART III

DISCUSSION

The Local Board contends the appeal should be dismissed because Appellant failed to file a brief. There is no requirement in O.C.G.A. §20-2-1160 or in the State Board Policy requiring a brief to be filed. The State Hearing Officer, therefore, concludes that the failure to file a brief does not warrant dismissal.


Appellant claims on appeal to the State Board of Education that O.C.G.A. §20-2-1160 requires the Local Board to convene as a tribunal for inquiry into the circumstances surrounding Appellant's nonrenewal, including allegations that the nonrenewal decision was arbitrary and capricious, and was an abuse of discretion.

The circumstances and issues raised are the same as those in Trotter, et al. v. Dalton City Board of Education, Case No. 1985-4, and Yvonne Gee v. Monroe County Board of Education,

Case No. 1985-17, and the discussions therein are wholly applicable to the instant case; i.e., the State Board of Education does not have jurisdiction to decide this appeal because a hearing was not conducted by the Local Board.

PART IV
RECOMMENDATION

Based upon the foregoing, the record submitted, the Local Board's brief, and arguments of counsel, the State Hearing Officer is of the opinion the State Board of Education lacks jurisdiction in the instant case because there has not been a hearing before the Local Board as required under the provisions of O.C.G.A. §20-2-1160. The State Hearing Officer, therefore, recommends that the appeal herein be DISMISSED.



L. O. BUCKLAND
State Hearing Officer