



**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

**JOHN O. GEE,**

**Appellant,**

**v.  
CHATHAM COUNTY BOARD  
OF EDUCATION,**

**Appellee.**

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**CASE NO. 1986-45**

**RECOMMENDATION OF  
HEARING OFFICER**

**PART I**

**SUMMARY**

This is an appeal by John O. Gee (hereinafter "Appellant") from a decision of The Board of Public Education for the City of Savannah and the County of Chatham (hereinafter "Local Board") which terminated him from his position as a custodian. Appellant contends on appeal that he was improperly accused of abusing his sick leave, questions whether standard board policy was followed, and argues that there was a mistake in a letter to him concerning in which department he worked. The Hearing Officer recommends that the decision of the Local Board be sustained.

**PART II**

**FACTUAL BACKGROUND**

On March 5, 1986, around 7:00 p.m., a social worker employed by the Local Board was to have a meeting at the psycho-educational building with several parents of children involved in the school system's programs. Since the meeting was after school hours, and the social worker did not have a key to the building, arrangements had been made to have the janitor open the building for the meeting. When the social worker and the parents arrived, however, the building was locked and no one was there to open it. Appellant arrived while the social worker and parents were

standing outside and approached the social worker and parents. A conversation ensued which resulted in the parents and social worker leaving because they could not get into the building. The social worker reported to the administration that Appellant had told her he had a key but he would not let them in because the custodial crew was stripping the floors; and that even *if* the social worker called her supervisor, he still would not let them into the building. Based upon this incident and previous disciplinary actions which had been taken against Appellant, the administration notified Appellant that he was terminated April 4, 1986, for consistent poor and unreliable performance.

Appellant filed a grievance April 6, 1986, and, after a series of lower level appeals, a hearing was held by the Local Board on August 26, 1986. At the hearing, the social worker testified that Appellant informed her he had a key but he would not let her in and that his statements were made in an arrogant manner. Additionally, several previous instances of disciplinary action which had been taken against Appellant were introduced through testimony and records. Appellant denied being rude and stated he had no key to the building and no reason to tell the social worker he could let her into the building. Appellant presented no evidence of any contract with the Local Board or any policies or procedures entitling him to further employment with the Local Board.

The Local Board voted five to one to uphold the Superintendent's recommendation. Appellant was notified by letter dated August 27, 1986 of the Local Board's decision and the Local Board provided Appellant with a copy of O.C.G.A. §20-2- 1160 on September 9, 1986. Appellant filed this appeal September 25, 1986.

### **PART III**

#### **DISCUSSION**

The State Board of Education is authorized to hear appeals from decisions of local boards of education under O.C.G.A. §20-2-1160. However, the State Board of Education is not authorized to consider evidence or issues which were not before a local board and the State Board of Education is bound to sustain the decision of a local board if there is any evidence to support the decision of the Local Board, absent a violation of law or an abuse of discretion on the part of the Local Board. See Ransum v. Chattooga Cnty. Bd. of Ed., L, 144 Ga. App. 783 (1978); Antone v. Greene Cnty. Bd. of Ed., Case No. 1976-11.

The present case is somewhat different from the typical employee appeal to the State Board of Education. Generally, employees who appeal to the State Board of Education have been terminated from a contract of employment or have worked more than three years and been non-renewed. In those instances, the employees have a statutory right (O.C.G.A. §20-2-940, and O.C.G.A. §20-2-942) to continued employment unless the local board can demonstrate cause for termination. In the present case, no contract showing that Appellant has any right to continued employment exists and Appellant has not established any right to tenure. Thus, there is no requirement that the Local Board demonstrate any ground for termination.

Because there is no requirement for the Local Board to demonstrate any ground for termination of Appellant's employment, Appellant must demonstrate a violation of law or an abuse of discretion on the part of the Local Board in order to obtain reversal of the Local Board's decision.

Appellant has failed to allege on appeal that there is any violation of law or abuse of discretion on the part of the Local Board and, therefore, has provided no allegation which would authorize the State Board of Education to reverse the decision of the Local Board. Appellant's

allegations, in sum, are that the Local Board should not have terminated his employment for the incidents which were raised at the hearing. Since there is evidence in the record which supports the decision of the Local Board, the Hearing Officer is of the opinion that Appellant's dismissal was not an abuse of discretion and Appellant was not deprived of any rights of due process.

#### **PART IV**

#### **RECOMMENDATION**

Based upon the foregoing discussion, the record presented, and the briefs and arguments of the parties, the Hearing Officer is of the opinion Appellant has set forth no grounds which could support a reversal of the decision of the Local Board. The Hearing Officer, therefore, recommends the decision of the Local Board be

SUSTAINED.

L. O. BUCKLAND