STATE BOARD OF EDUCATION

STATE OF GEORGIA

:

DANIEL SHELL,

:

Appellant :

:

: CASE NO. 1998-46

:

vs.

:

ATLANTA CITY

BOARD OF EDUCATION

:

: DECISION

Appellee :

This is an appeal by Daniel Shell (Appellant) from a decision by the Atlanta City Board of Education (Local Board) to terminate his teaching contract after finding him incompetent and for other good and sufficient cause under the provisions of O.C.G.A. § 20-2-940. Appellant claims that the evidence does not support the Local Board's decision. The Local Board's decision is sustained.

The Local Board employed Appellant as a middle school teacher for eleven years, but only the last five years were in a full-time capacity. Throughout his tenure as a full-time teacher, Appellant encountered difficulties in managing his classrooms. He was placed on personal development plans in 1994 and 1997 to address his classroom management techniques. Despite the help given to Appellant, and his successful completion of the personal development plans, Appellant continued to experience problems in controlling his students. During the 1997-1998 school year, Appellant's problems continued while the administration sought methods to assist him. In February 1998, Appellant's principal recommended to the Local Superintendent that Appellant's teaching contract should not be renewed. He was again placed on a personal development plan after the principal's recommendation was made. By operation of law, Appellant's contract for the 1998-1999 school year was renewed because no adverse action occurred before April 15, 1998.

On May 1, 1998, the Local Superintendent notified Appellant that the he would seek termination of Appellant's teaching contract on the grounds of incompetence, insubordination, and for other good and sufficient cause under the provisions of O.C.G.A. § 20-2-940. Appellant requested a hearing, which the Local Board conducted on June 24-25, 1998. Substantial evidence was presented about the problems Appellant experienced, the disruption that resulted, and the efforts to assist Appellant. After the hearing, the Local Board made detailed findings of fact and conclusions of law. The Local Board found that Appellant was not insubordinate, but he was

incompetent and other good and sufficient cause existed to terminate Appellant's contract. Appellant then filed a timely appeal to the State Board of Education.

Appellant's only claim on appeal is that there was no evidence submitted to support the charges. Appellant then points to the satisfactory ratings he received each year and the positive testimony given on his behalf at the hearing. The principal thrust of Appellant's argument is that there was conflicting testimony regarding his effectiveness and ability to manage his classrooms.

"The standard for review by the State Board of Education is that if there is any evidence to support the decision of the local board of education, then the local board's decision will stand unless there has been an abuse of discretion or the decision is so arbitrary and capricious as to be illegal. See, Ransum v. Chattooga County Bd. of Educ., 144 Ga. App. 783, 242 S.E.2d 374 (1978); Antone v. Greene County Bd. of Educ., Case No. 1976-11 (Ga. SBE, Sep. 8, 1976)." Roderick J. v. Hart Cnty. Bd. of Educ., Case No. 1991-14 (Ga. SBE, Aug. 8, 1991).

The job of weighing the credibility of the witnesses rests with the Local Board. The State Board of Education cannot make such determinations because it is unable to observe the witnesses and their demeanor. In its detailed decision, the Local Board pointed out the many instances of improper classroom management. This evidence was sufficient, despite the positive testimony given on Appellant's behalf The State Board of Education, therefore, concludes that there was evidence presented to support the Local Board's decision.

Based upon the foregoing, the State Board of Education is of the opinion that the evidence supports the Local Board's decision. The Local Board's decision, therefore, is SUSTAINED.

Mr. J.T. Williams, Jr. was not present. The seat for the 2nd Congressional District is vacant.

This 12th day of November 1998.

Larry Thompson Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

:

DANIEL SHELL,

:

Appellant :

:

: CASE NO. 1998-46

:

vs.

:

ATLANTA CITY

BOARD OF EDUCATION

:

: DECISION

Appellee :

This is an appeal by Daniel Shell (Appellant) from a decision by the Atlanta City Board of Education (Local Board) to terminate his teaching contract after finding him incompetent and for other good and sufficient cause under the provisions of O.C.G.A. § 20-2-940. Appellant claims that the evidence does not support the Local Board's decision. The Local Board's decision is sustained.

The Local Board employed Appellant as a middle school teacher for eleven years, but only the last five years were in a full-time capacity. Throughout his tenure as a full-time teacher, Appellant encountered difficulties in managing his classrooms. He was placed on personal development plans in 1994 and 1997 to address his classroom management techniques. Despite the help given to Appellant, and his successful completion of the personal development plans, Appellant continued to experience problems in controlling his students. During the 1997-1998 school year, Appellant's problems continued while the administration sought methods to assist him. In February 1998, Appellant's principal recommended to the Local Superintendent that Appellant's teaching contract should not be renewed. He was again placed on a personal development plan after the principal's recommendation was made. By operation of law, Appellant's contract for the 1998-1999 school year was renewed because no adverse action occurred before April 15, 1998.

On May 1, 1998, the Local Superintendent notified Appellant that the he would seek termination of Appellant's teaching contract on the grounds of incompetence, insubordination, and for other good and sufficient cause under the provisions of O.C.G.A. § 20-2-940. Appellant requested a hearing, which the Local Board conducted on June 24-25, 1998. Substantial evidence was presented about the problems Appellant experienced, the disruption that resulted, and the efforts to assist Appellant. After the hearing, the Local Board made detailed findings of fact and conclusions of law. The Local Board found that Appellant was not insubordinate, but he was