

STATE BOARD OF EDUCATION

STATE OF GEORGIA

R. C. LANSFORD,)
Appellant,)
v.) CASE NO. 1983-34
CHATHAM COUNTY BOARD OF EDUCATION,)
Appellee.)

O R D E R

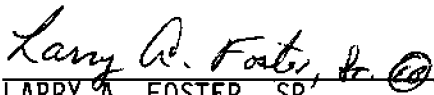
THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after a vote in open meeting,

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 Chatham County Board of Education herein appealed from is hereby sustained.

Mrs. Jasper was not present.

This 12th day of April, 1984.


LARRY A. FOSTER, SR.
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

ROBERT C. LANSFORD,)	
)	
Appellant,)	
)	CASE NO. 1983-34
v.)	
)	
THE BOARD OF PUBLIC EDUCATION)	
FOR THE CITY OF SAVANNAH AND)	
THE COUNTY OF CHATHAM,)	
)	REPORT OF
Appellee.)	HEARING OFFICER

PART I

SUMMARY OF APPEAL

This is an appeal by Robert C. Lansford (hereinafter "Appellant") from a decision by the Board of Public Education for the City of Savannah and the County of Chatham (hereinafter "Local Board") not to renew his teaching contract because he took sick leave when he was not sick. The appeal is based on several grounds which challenge the conduct of the hearing before the Professional Practices Commission, the decision process of the Local Board, the sufficiency of the evidence, and other matters. The Hearing Officer recommends that the decision of the Local Board be sustained.

PART II

FINDINGS OF FACT

On April 14, 1983, Appellant received written notice from the Local Superintendent that his contract as a teacher for the 1983-1984 school year would not be renewed. Appellant requested

a specification of charges and a hearing on the charges. The Local Superintendent gave Appellant the detailed charges in a letter dated May 18, 1983, with a notice that a hearing would be held before a tribunal constituted by the Professional Practices Commission. The letter charged Appellant with unprofessional conduct in that he had submitted a request for sick leave for two days when he chaperoned some students from a private school to Atlanta for a two-day trip on February 10-11, 1983.

The hearing before the Professional Practices Commission tribunal was held on July 13, 14 and 15, 1983. On August 29, 1983, the Professional Practices Commission tribunal issued its report and recommendation.

The Professional Practices Commission tribunal found that Appellant had been employed for a number of years by the Local Board, and during the preceding seven years, he had been employed as an Evening Division Coordinator. During the period that he served as an Evening Division Coordinator, Appellant had not taken any time for sick leave. On November 10, 1982, Appellant began his duties as a classroom teacher. On February 10 and 11, 1983, Appellant chaperoned a field trip of students from a private school in Savannah to Atlanta. Appellant was one of four chaperons. He drove the private school van from Savannah to Atlanta, accompanied the group on its visits to several sites, and then drove on the return trip. When he returned, Appellant submitted a sick leave request for the two days. Before taking the field trip, Appellant had taken

two of the three personal leave days allowed under State law and Local Board policy. He, therefore, knew that he would suffer a loss in pay if he took personal leave for the two-day trip to Atlanta. Appellant claimed that he was sick because he was suffering from mental stress, but the Professional Practices Commission tribunal found that Appellant was able to perform his job duties as a classroom teacher on February 10 and 11, 1983. The tribunal found that Appellant was not suffering from any illness or injury which would have made him unable to perform his job duties. The tribunal found that Appellant was aware approximately ten days before the field trip that he was scheduled to chaperon and drive the students to Atlanta, and that if he did not participate, there would be disruption in the field trip plans. The tribunal, therefore, placed little weight on Appellant's contention that he became ill on February 9, 1983, and suddenly realized he was under stress when he found himself yelling at a student. The tribunal also found that there was no coincidence that the field trip date was the same date as when Appellant's claimed stress reached such a level that he was unable to perform his job duties. The tribunal specifically found that Appellant "knowing that he was not entitled to claim sick leave on those dates, knowingly claimed sick leave under circumstances where he knew he was not entitled to claim sick leave and thereby willfully neglected his job duties as a teacher at Tompkins High School in order that he might chaperon the private school field trip to Atlanta."

The Professional Practices Commission tribunal found that Appellant's absence from his classroom was a disruption of the learning process, and that since he was not entitled to claim sick leave, the disruption was not authorized or appropriate. The tribunal discounted the testimony of a clinical social worker who testified that he would have advised Appellant to take some time off. The social worker also testified that he would give similar advice to 99% of his clients who claimed they were suffering from stress.

There was testimony concerning the practices of other employees who claimed sick leave when they were absent for personal reasons. The Professional Practices Commission tribunal found that the incidents were confined to one program, were done by employees who, for the most part, were no longer employed, and the incidents occurred without the knowledge of the immediate supervisors of the individuals involved.

Based upon its findings, the Professional Practices Commission recommended nonrenewal of Appellant's teaching contract. At a meeting on September 7, 1983, the Local Board adopted the findings and recommendation of the Professional Practices Commission. An appeal to the State Board of Education was filed by Appellant on October 6, 1983.

PART III

CONCLUSIONS OF LAW

Appellant filed several exceptions to the decision of the Local Board, and the findings and recommendation of the

Professional Practices Commission tribunal. In twenty-two numbered exceptions, Appellant maintains that he was denied due process, that the evidence did not support the findings, the recommendations, or the decision, that the hearing officer for the Professional Practices Commission tribunal erred in certain procedural rulings, that the Local Board did not comply with the Code of Judicial Conduct in its deliberations, and that irregularities occurred after the hearing.

Appellant claims that the Local Board's decision contradicts the preponderance of the evidence. Appellant, however, readily admitted he had chaperoned the group of private school students to Atlanta during his two-day absence. He also testified that he was aware approximately ten days before the field trip that he was scheduled to act as a driver and chaperon. Appellant's only claim of sickness was that he was suffering from mental stress. Because of Appellant's previous knowledge of the trip, his awareness that personal leave would result in the loss of pay, and the fact that he spent the two days with a group of students, the Professional Practices Commission tribunal could reasonably conclude that Appellant was not sick. Appellant's claim that the Local Board did not carry the burden of proof because it failed to establish that he was not sick is without merit. Appellant was not under a doctor's care for mental stress, and the Local Board showed his activities during the two day period. This evidence was sufficient to establish that Appellant was not sick, and the burden shifted to Appellant

to establish his sickness. Appellant's attempt to establish his sickness by the testimony of a clinical social worker, who had talked with him for one and one-half hours approximately four months after the field trip, was found wanting by the tribunal. The State Board of Education follows the rule that if there is any evidence to support the decision of a local board of education, then the decision will not be disturbed upon review. Ransum v. Chattooga Cnty Bd. of Ed., 144 Ga. App. 783 (1978); Antone v. Greene Cnty Bd. of Ed., Case No. 1976-11. The Hearing Officer concludes that there was evidence before the Professional Practices Commission tribunal that Appellant was not sick, and that his claim for sick leave was unprofessional conduct which resulted in neglect of his duties as a teacher.

Appellant claims he was denied due process because the attorney for the Local Board and the Local Superintendent participated when the Local Board made its decision. Appellant also claims the hearing officer for the Professional Practices Commission tribunal erred by not granting a motion to exclude the attorney and the Local Superintendent from the Local Board's deliberations, and the Local Board similarly erred by not considering the motion. Appellant also claims that these actions resulted in violation of the Code of Judicial Conduct by the hearing officer, the tribunal, and the Local Board. The State Board of Education is limited to reviewing only the record presented on appeal. There is no evidence in the record that the Local Superintendent or the attorney for the

Local Board participated when the Local Board decided to accept the findings and recommendations of the Professional Practices Commission tribunal. The Hearing Officer, therefore, concludes that Appellant's claims are not reviewable on appeal.

Appellant also claims he was denied due process because the Professional Practices Commission tribunal considered his entire personnel file and the results of a prior hearing. The tribunal's Hearing Officer, however, limited the introduction of such evidence, and ruled that it could only be considered if the tribunal first found that Appellant had acted unprofessionally by taking sick leave for personal reasons. Since this was a hearing on the nonrenewal of a contract, Appellant's previous record was a relevant consideration for the tribunal. Appellant cannot claim he was surprised by the introduction of the file because he was put on notice about the file before the hearing. The Hearing Officer, therefore, concludes that Appellant has failed to show that he was denied due process by the introduction and consideration of the personnel file and record of a previous hearing.

Appellant also claims that the tribunal and the Local Board violated the Code of Ethics of the Professional Practices Commission and of the Local Board by failing to consider how the sick leave policies were enforced by the school administration. The tribunal received evidence concerning violations of the policies by other employees, but found that Appellant's evidence was insufficient to establish that the administration permitted

other employees to take sick leave for personal purposes, or that he was being treated differently from other employees. The Hearing Officer, therefore, concludes that Appellant's claim that he was denied due process because of policy violations by other employees is without merit.

Appellant also claims he was denied due process because the Local Board did not provide him a copy of the hearing transcript, or a copy of the Local Board's decision. The record, however, does not indicate that the Local Board denied Appellant access to any of the records. The Appeals Policy (05-316) of the State Board of Education provides that if the appellant does not file a transcript of the evidence and proceedings, then a request must be filed with the local superintendent to prepare a transcript, and that the local superintendent can require the appellant to pay in advance for the costs of such preparation. The responsibility for obtaining a transcript, therefore, rests with the Appellant and not with the Local Board. In the instant case, the proceedings were recorded by public stenographers and Appellant could have ordered a copy of the transcript. Appellant cannot, therefore, claim that the Local Board denied him access to the transcript. The decision of the Local Board was a matter of public record, and there has been no showing by Appellant that he was denied access to public records. Also, the Local Board informed Appellant, in a letter dated September 14, 1983, that the Local Board had "adopted as its findings the findings of fact, conclusions of law and the recommendations

of the State Professional Practices Commission" and that "[t]his upholds the decision of the Superintendent ... not to renew your contract of employment ... for the school year 83-84." The Local Board's minutes state that the "report of the Professional Practices Commission ... be approved and that ... [Appellant] no longer be an employee of the system." The vote of the members of the Local Board also appears in the minutes. Appellant, therefore, was fully informed when he received the September 14, 1983 letter. The Hearing Officer, therefore, concludes that Appellant has failed to establish that he was denied due process because of any lack of access to a transcript of the hearing before the Professional Practices Commission tribunal, or because he did not receive a copy of the Local Board's decision.

The State Hearing Officer provided the parties additional time following oral arguments to submit briefs. In addition, the written pre-hearing motions made by Appellant were not included in the record. The motions requested more specificity in the charges, requested the right to conduct discovery depositions prior to the hearing, and requested a more definite statement. The Professional Practices Commission tribunal Hearing Officer denied each of the motions prior to the hearing, and Appellant objected to their denial at the beginning of the hearing. Although a request was sent to the Professional Practices Commission for copies of the motions, they were not provided. Neither of the parties submitted additional briefs. Upon further consideration of the record submitted, the Hearing

Officer concludes that the absence of the written motions is immaterial to a decision on the appeal submitted. The motions were fully discussed at the beginning of the hearing, Appellant was given notice of the charges and was able to prepare an adequate defense, as evidenced by a three-day hearing and the number of witnesses presented, and there has been no showing that Appellant was harmed by an inability to conduct additional pre-hearing discovery. The Hearing Officer, therefore, concludes that the rulings by the Professional Practices Commission tribunal Hearing Officer were proper.

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 the decision of the Local Board is supported by the evidence contained in the record, and there has not been any showing that Appellant was denied due process. The Hearing Officer, therefore, recommends that the Local Board's decision be affirmed.



L. O. BUCKLAND
Hearing Officer