

**STATE BOARD OF EDUCATION
STATE OF GEORGIA**

WILLIE J. FUSSELL,	:	
	:	
Appellant,	:	
	:	CASE NO 1992-2
vs.	:	
	:	DECISION
ATLANTA CITY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by Willie J. Fussell (“Appellant”) from a decision by the Atlanta City Board of Education (“Local Board”) to terminate his contract based upon charges of insubordination, incompetence, willful neglect of duties, and other good and sufficient cause. Appellant claims on appeal that there was insufficient evidence to sustain the Local Board’s decision. Additionally, Appellant claims that he was denied due process because of the manner in which the hearing was conducted. The Local Board moved to dismiss the appeal because it was not timely filed. The Local Board also claims that there was sufficient evidence to sustain its decision and that Appellant was not denied due process. The appeal is dismissed because it was filed more than 30 days after the Local Board made its decision. O.C.G.A. § 20-2-940; 20-2-1160.

O.C.G.A. § 20-2-940 provides that appeals from the decisions of local boards of education in termination hearings are governed by the provisions of O.C.G.A. § 20-2-1160, which provides that appeals “shall be filed with the superintendent within 30 days of the decision of the local board....” (emphasis added). The Local Board made its decision on November 20, 1991, and Appellant was notified in a letter dated November 22, 1991. Appellant first attempted to file an appeal on Monday, December 23, 1991. The offices of the Superintendent were closed for the Christmas holidays and the appeal was not received by the Superintendent until January 2, 1992.

In the November 22, 1991, letter to Appellant, the President of the Local Board wrote that Appellant had the right to appeal under the provisions of O.C.G.A. § 20-2-1160. The letter also stated, “Any such appeal which you might file must be filed with the Superintendent within thirty (30) days of this date.” Appellant, therefore, calculated the due date of the appeal as December 22, 1991, which was a Sunday, thus making the appeal due on December 23, 1991.

The length of time for filing an appeal, however, has been established by the legislature in O.C.G.A. § 20-2-1160. Neither the parties, nor the State Board of Education has the power or authority to extend the limitation period. Under the statute, the appeal was due on December 19, 1991, well before the attempted delivery of the appeal.

Since the appeal was not timely filed, the State Board of Education does not have jurisdiction to consider the appeal. *See, Josh W. v. Gwinnett County Bd. of Educ.*, Case No. 1991-15 (SBE, June, 1991). The appeal, therefore, is hereby

DISMISSED.

This 14th day of May, 1992.

Mr. Brinson and Mr. Sears were not present.

James M. Blanchard
Vice Chairman for Appeals