

STATE BOARD OF EDUCATION

STATE OF GEORGIA

BARRY LEON THOMAS, :
 :
 Appellant, :
 :
 v. :
 :
 : **CASE NO. 1992-6**
 :
 DEKALB COUNTY : **DECISION**
 BOARD OF EDUCATION, :
 :
 Appellee. :

This is an appeal by Barry Leon Thomas (“Appellant”) from a decision by the DeKalb County Board of Education (“Local Board”) to terminate his teaching contract for failure to secure and maintain necessary educational training and for presenting false application forms. Appellant maintains that he was denied due process in the conduct of the hearing. The Local Board’s decision is sustained.

Appellant was initially employed as a teacher by the Local Board for the 1990-1991 school year. His contract was subsequently renewed for the 1991-1992 school year. At the time of the renewal, Appellant had an ET-4 certificate that expired on June 30, 1991. Appellants contract had a provision that said:

The teacher presently has on file with the Board a teaching certificate which will expire prior to September 1, 1991. This contract is contingent on the teacher holding a valid, non-emergency, in-field teaching certificate issued by the Georgia Department of Education prior to reporting for duty for the 1991-92 school year. Failure to meet this condition will render this contract void. In the event this commitment cannot be fulfilled, the teacher must provide a written resignation to the Board not later than June 30, 1991. Failure to render such notice will be considered a breach of professional conduct.

In a letter dated January 8, 1991, the Georgia Department of Education notified Appellant that to obtain a non-emergency certification he needed ten-quarter hours of acceptable college credit or the equivalent and a qualifying score on the Teacher Certification Test in Health and Physical Education.

Appellant enrolled in courses to obtain the necessary hours, but he withdrew when his mother became sick and needed the presence of a family member. As a result, Appellant did not obtain the ten-quarter hours before June 30, 1991. On September 18, 1991, Appellant wrote to the DeKalb Personnel Department and explained that he had not obtained the required hours.

Appellant applied for professional certification in October, 1991, but failed to provide transcripts showing that he had completed the required course work. On December 10, 1991, the DeKalb School System asked for Appellant's resignation. He signed the resignation, but withdrew it on December 13, 1991. On December 16, 1991, the Local Superintendent wrote to Appellant and told him that he was suspended with pay based upon breach of contract and falsification of records. The letter also informed Appellant that a hearing on the charges would be conducted by the Local Board. On December 27, 1991, the Local Superintendent wrote to Appellant and told him that the hearing before the Local Board would be conducted on January 7, 1992. The letter also stated that Appellant had the right to be represented by counsel and, upon request, would be given subpoenas to require the attendance of witnesses and the production of documents.

On December 31, 1991, the Professional Standards Commission wrote to Appellant and informed him that he was no longer eligible for certification because he had not completed his ten hours of course work.

On January 7, 1992, Appellant requested a postponement of his hearing. The Local Superintendent denied the request for a postponement and told Appellant that the hearing would proceed as scheduled. The Local Board conducted the hearing without Appellant being present. At the conclusion of the hearing, the Local Board voted to terminate Appellant's teaching contract. Appellant then made a timely appeal to the State Board of Education.

On appeal, Appellant claims that he was denied due process because he was given insufficient notice of the hearing and the Local Board failed to provide him with Appellant ever requested any subpoenas. O.C.G.A. § 20-2-940(b)(4) provides that subpoenas will be provided "upon request." In the absence of such a request, the Local Board was not required to furnish Appellant any subpoenas.

With regard to the issue of falsification of the application, the applicable laws were not adequately addressed by the parties and in view of the decisions expressed above the State Board of Education will not decide this issue.

Based upon the foregoing, it is the opinion of the State Board of Education that Appellant failed to obtain the necessary certification and the Local Board properly terminated his teaching contract.

The Local Board's decision is, therefore,

SUSTAINED.

This 14th day of May, 1992.

Mr. Brinson and Mr. Sears were not present.

James H. Blanchard
Vice Chairman for Appeals