

STATE BOARD OF EDUCATION

STATE OF GEORGIA

LOUISE MINTAH,	:	
	:	
Appellant,	:	
v.	:	CASE NO. 1992-23
	:	
SPALDING COUNTY	:	DECISION
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

PART I

SUMMARY

This is an appeal by Louise Mintah ("Appellant") from a decision by the Spalding County Board of Education ("Local Board") to adopt the findings and recommendation of a Professional Practices Commission Tribunal ("PPC Tribunal") and terminate Appellant's teaching contract because of insubordination and willful neglect of duty. The decision of the Local Board is sustained.

PART II

FACTUAL BACKGROUND

Appellant was a fourth grade teacher employed by the Local Board. On December 16, 1991, she fell while in her classroom and struck her head. Appellant's principal examined her and did not find any blood or any swelling. Nevertheless, the principal took Appellant to a hospital emergency room at her request. Appellant did not lose consciousness and was able to climb in and out of the principal's vehicle without assistance. The examining physician diagnosed that Appellant had muscle spasms and prescribed some medicine. Appellant was discharged to go home after a follow-up examination was scheduled for December 18, 1991.

On December 17, 1991, Appellant did not return to school. When the principal called her, Appellant explained that she was sick. Appellant also told the principal that another teacher knew where her lesson plans were. The principal and the other teacher were unable to locate the lesson plans. Additionally, each teacher was required to have emergency lesson plans available, but the principal and the other teacher were unable to locate the emergency lesson plans.

Appellant also was absent from school on December 18 and 19, 1991. On December 20, 1991, the Christmas holidays began. When school reopened on January 6, 1992, Appellant was absent and her principal prepared lesson plans for her students.

On January 8, 1992, Appellant's principal wrote to her and requested lesson plans. The principal also asked Appellant to give him a report from her doctor and an estimate of when she would return to school. Appellant responded by writing that she could not and would not provide lesson plans. She did not, however, provide a report from her doctor.

On January 16, 1992, Appellant's principal went to Appellant's doctor's office and learned that Appellant had been released to return to work. Appellant's principal wrote to Appellant and directed her to return to work on January 21, 1992. Appellant did not respond in writing to the principal's letter. Appellant's principal then learned that Appellant had been referred to another doctor. The principal contacted the second doctor on January 27, 1992. The principal learned that the second doctor had also released Appellant to return to work. The principal then wrote a second letter to Appellant and directed her to return to work. Again, Appellant did not respond in writing to the principal's second directive.

On February 24, 1992, the Local Superintendent wrote to Appellant and told her to let him know whether she was returning to school or going to another doctor. Appellant did not respond to the Local Superintendent's request. On March 20, 1992, the Local Superintendent wrote to Appellant and informed her that a hearing would be held before a PPC Tribunal on her termination because of insubordination and willful neglect of duties.

At the conclusion of the hearing before the PPC Tribunal, the Tribunal found that the doctors had released Appellant to return to work and that she should have returned to work by the time the Local Superintendent wrote on February 24, 1992. As a result, the PPC Tribunal found that Appellant's failure to return to work or respond to the Local Superintendent constituted insubordination and willful neglect of duty.

The PPC Tribunal also found that Appellant's response regarding her emergency lesson plans was "evidence of an extraordinarily callous and insensitive attitude toward her duties...." The PPC Tribunal found that the failure to provide emergency lesson plans was a violation of well-known and reasonable requirements and constituted insubordination and willful neglect of duty.

The PPC Tribunal recommended that the Local Board terminate Appellant's teaching contract. The Local Board met and adopted the findings and recommendation of the PPC Tribunal. Appellant then filed an appeal with the State Board of Education.

PART III

DISCUSSION

Appellant was charged with insubordination, willful neglect of duties, and other good and sufficient causes under the provisions of O.C.G.A. § 20-2-0940. On appeal, Appellant argues that there was no evidence of insubordination or willful neglect of duties.

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).

Willful neglect of duty requires some flagrant act or omission, an intentional violation of a known rule or policy, or a continuous course of reprehensible conduct. Terry v. Houston Cnty. Bd. of Educ., 178 Ga. App. 296, 342 S.E.2d 774 (1986). Insubordination is a willful refusal or failure to comply with a reasonable directive that is given by one who has authority.

In the instant case, the PPC Tribunal could find that Appellant willfully neglected her duties by not having an emergency lesson plan available. During pre-planning, the administration stressed the need to have emergency plans available. Later, two reminders to have emergency plans available were placed in a weekly bulletin that all of the teachers received.

The PPC Tribunal could find that Appellant willfully neglected her duties when the principal called her for her lesson plans and, even though she testified that she had a copy of her emergency lesson plan, she did not provide a copy to the principal or tell him she had a copy. Even though she knew the principal could not find the original, she testified she did not have to provide the principal with a copy because she left the original at school.

There was also evidence from which the PPC Tribunal could find that Appellant should have returned to work by the time the Local Superintendent wrote his letter on February 24, 1992. Appellant claimed that she was still in pain and that she had a herniated disk in the lumbar region of her back. Appellant presented a doctor's report that showed a diagnosis of a herniated disk. Nevertheless, the two doctors who were treating Appellant under the school's Workers' Compensation plan had released her to return to work. When Appellant was taken to the emergency room, she was able to enter and exit the vehicle without assistance, and she later rose quickly in a single jerk when one of the doctors entered an examining room. During the hearing before the PPC Tribunal, Appellant was able to adjust a heavy chair without trouble, and she sat throughout the hearing without apparent difficulty. The PPC Tribunal, as the trier of fact, chose not to accept Appellant's claims that she was still disabled. The State Board of Education, therefore, concludes that there was evidence available to support the PPC Tribunal's findings.

PART IV

DECISION

Based upon the foregoing, the State Board of Education is of the opinion that there was evidence that Appellant willfully neglected her duties and was insubordinate. The Local Board's decision, therefore, is

SUSTAINED.

This 12th day of November, 1992.

Mr. Lathem and Mr. Williams were not present.

James H. Blanchard
Vice Chairman for Appeals