

STATE BOARD OF EDUCATION

STATE OF GEORGIA

TOBIAS WALKER,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2007-42
	:	
ATLANTA CITY	:	
BOARD OF EDUCATION,	:	
	:	DECISION
Appellee.	:	

This is an appeal by Tobias Walker (Appellant) from a decision by the Atlanta City Board of Education (Local Board) to terminate his teaching contract because of insubordination and other good and sufficient cause under the provisions of O.C.G.A. § 20-2-940. Appellant claims that the Local Board failed to issue a timely decision, the Local Board’s decision was not based on the tribunal’s findings and recommendations, and there was no evidence to establish that he was insubordinate. The Local Board’s decision is sustained.

On March 6, 2006, a teacher told Appellant that she suspected that a student had stolen her cell phone battery. Appellant said that he would find the student and return him to the school. Appellant found the student walking home with some other students and told the student to get in his car. When the student refused, Appellant grabbed his arm and made him get into the vehicle, despite the principal’s instructions that teachers were not to transport students in their private vehicles unless they had parental permission and submitted a written form. The student had a cell phone battery and a paperweight in his pocket. Appellant returned to the school with the student after driving around for some time and questioning the student about the battery, but he did not inform the principal that he had picked the student up in his private vehicle. The principal suspended the student for three days and sent him home. Appellant followed the student home in his car. When the student’s mother arrived home and the student told his story to his parents, the parents made a police report of the incident and filed criminal charges against Appellant.

A tribunal found that Appellant was insubordinate because he had been instructed not to take students in his private vehicle without parental permission, but he, nevertheless, transported the student in his private vehicle. The tribunal also found that there was other good and sufficient cause to discipline Appellant because his actions in conducting an investigation concerning the theft, accosting the student off campus, questioning the student, and compelling the student to accompany him back to school were unethical and unprofessional and caused worry on the part of the student’s parents. The tribunal recommended a 60-day suspension.

The Local Board, however, decided to terminate Appellant’s teaching contract. Appellant then appealed to the State Board of Education.

On appeal, Appellant claims that (1) the Local Board failed to file its decision within the timeframe established by O.C.G.A. § 20-2-940(f), (2) the Local Board's decision was not based on the tribunal's findings and recommendations, and (3) there was insufficient evidence to establish that Appellant was insubordinate.

Appellant's first claim, that the Local Board failed to file its decision within the time permitted by O.C.G.A. § 20-2-940(f), which requires a local board to issue a decision within ten days after receiving a transcript of the proceedings before a tribunal and the tribunal's recommendation, is without merit. Before the hearing, the parties stipulated that the time limitations set forth in O.C.G.A. § 20-2-940(f) were waived. Appellant, therefore, is estopped from claiming any error because the Local Board did not file its decision within ten days after receiving the transcript of the hearing.

Appellant next claims that the Local Board failed to base its decision on the findings and recommendation of the tribunal. Appellant makes this claim because the Local Board's letter informing him of its decision did not refer to the findings and recommendation of the tribunal. There is, however, nothing in O.C.G.A. § 20-2-940, and Appellant has not referenced any case law, that requires a local board to make specific reference to the findings and recommendation of a tribunal. Instead, government officials are presumed to act in accordance with their statutory duties unless there is contrary evidence. The lack of any reference to the findings and recommendation of the tribunal does not constitute contrary evidence. The State Board of Education, therefore, concludes that the Local Board took the findings and recommendation of the tribunal into consideration in making its decision to terminate Appellant's teaching contract.

Appellant's final claim is that there was no evidence to support a finding that he was insubordinate because there was no evidence presented that he knew about the principal's directive that students were not to be transported in personal vehicles without parental permission. There was, however, evidence that the principal addressed the issue with his teachers and had forms available for teachers to obtain parental permission. Based on the evidence presented, the tribunal could find that Appellant was aware of the principal's directive. The State Board of Education concludes that there was some evidence to support the Local Board's decision.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board issued its decision in a timely fashion after considering the tribunal's findings and recommendation and that there was evidence to support the Local Board's decision. Accordingly, the Local Board's decision is
SUSTAINED.

This _____ day of June 2007.

William Bradley Bryant
Vice Chairman for Appeals

SUMMARY

This is an appeal by Tobias Walker (Appellant) from a decision by the Atlanta City Board of Education (Local Board) to terminate his teaching contract because of insubordination and other good and sufficient cause under the provisions of O.C.G.A. § 20-2-940. Appellant claims that the Local Board failed to issue a timely decision, the Local Board's decision was not based on the tribunal's findings and recommendations, and there was no evidence to establish that he was insubordinate. The Local Board's decision is sustained.