

STATE BOARD OF EDUCATION

STATE OF GEORGIA

WILLIAM DOMINICK,	:	
	:	
Appellant,	:	
	:	
vs.	:	CASE NO. 2009-18
	:	
FULTON COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	DECISION

This is an appeal by William Dominick (Appellant) from a decision by the Fulton County Board of Education (Local Board) to terminate his teaching contract because of willful neglect of duty and other good and sufficient cause under the provisions of O.C.G.A. § 20-2-940. Appellant claims there was no evidence to support the charges. The Local Board’s decision is sustained.

Appellant was hired by the Local Board to teach during the 2008-2009 school year. On his application for employment, Appellant failed to disclose that he had formerly been employed by the Atlanta City Board of Education during 2003. In addition, Appellant answered “no” to the question on the application whether he had previously been non-renewed, but the Atlanta City Board of Education had not renewed his contract for the 2003-2004 school year. When the Fulton County School System learned about the discrepancy, the administration moved to terminate Appellant’s contract because of willful neglect of duty and other good and sufficient cause under O.C.G.A. § 20-2-940 because of his failure to disclose his employment by the Atlanta City Board of Education and his failure to disclose that his contract had not been renewed.

A three-member tribunal conducted a hearing on the charges. Appellant claimed that his failure to disclose his prior employment and non-renewal were mere mistakes. He also claimed the question about non-renewal was ambiguous.¹ The tribunal, however, found that Appellant’s failure to disclose was willful and constituted willful neglect of duty and good and sufficient cause to terminate Appellant’s contract, which it recommended. The Local Board accepted the tribunal’s recommendation and terminated Appellant’s contract. Appellant then appealed to the State Board of Education.

¹ The question asked, “Have you ever failed to have a contract renewed with a school system”.

On appeal, Appellant reiterates his claim that his failure to list his employment by the Atlanta City Board of Education was an oversight and that the question regarding non-renewal was ambiguous. "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)." *Roderick J. v. Hart Cnty. Bd. of Educ.*, Case No. 1991-14 (Ga. SBE, Aug. 8, 1991). "The tribunal sits as the trier of fact and, if there is conflicting evidence, must decide which version to accept. When that judgment has been made, the State Board of Education will not disturb the finding unless there is a complete absence of evidence." *F. W. v. DeKalb Cnty. Bd. of Educ.*, Case No. 1998-25 (Ga. SBE, Aug. 13, 1998). There was evidence that Appellant failed to disclose his previous employment and non-renewal, which the tribunal could find was willful conduct. The tribunal could also conclude that Appellant's failures reflected upon his ability to be an effective teacher. *See, Cooper, et al. v. Atlanta City Bd. of Educ.*, Case No. 2005-08 (Ga. SBE, Nov. 10, 2004).

Appellant argued that he submitted an application to the Local Board that contained a reference to his employment by the Atlanta City Board of Education. There was, however, no evidence in the record of such a submission, and Appellant did not make this claim before the tribunal. Appellant also claims that the Local Board denied him due process because it sent him a letter that his contract would be terminated before he was given a hearing. This issue, however, was also not raised before the tribunal. "If an issue is not raised at the initial hearing, it cannot be raised for the first time when an appeal is made." *Hutcheson v. DeKalb Cnty. Bd. of Educ.*, Case No. 1980-5 (Ga. SBE, May 8, 1980). The State Board of Education, as an appellate body, is not authorized to consider matters that have not been raised before the Local Board. *Sharpley v. Hall Cnty. Bd. of Educ.*, 251 Ga. 54, 303 S.E.2d 9 (1983). In its review, the State Board of Education is confined to the record and cannot consider anything that was not introduced before the tribunal or the local board. O.C.G.A. § 20-2-1160(e).

Based upon the foregoing and a review of the record, it is the opinion of the State Board of Education that there was evidence to support the Local Board's decision and the Local Board did not deny Appellant due process. The Local Board's decision, therefore, is
SUSTAINED.

This _____ day of January 2009.

William Bradley Bryant
Vice Chairman for Appeals