

DESIREE MAYES,

Appellant

v.

PRINCE GEORGE'S
COUNTY BOARD OF
EDUCATION

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 17-37

OPINION

INTRODUCTION

The Appellant, who served as a guidance counselor for Prince George's County Public Schools (PGCPS), challenges the decision of the Prince George's County Board of Education (local board) terminating her for willful neglect of duty.

We transferred the case pursuant to COMAR 13A.01.05.07 to the Office of Administrative Hearings (OAH) for review by an Administrative Law Judge (ALJ). On August 4, 2017, the ALJ issued a Proposed Decision on Motion for Summary Affirmance recommending that the State Board uphold the ALJ's proposed decision granting the local board's Motion for Summary Affirmance and upholding the local board's decision terminating the Appellant from employment.

The Appellant did not file any exceptions to the ALJ's proposed decision.

FACTUAL BACKGROUND

The factual background in this case is set forth in the ALJ's proposed decision, Undisputed Facts, pp.4-7. We have provided a few salient facts here: The Appellant was out on sick leave from November 29, 2010 to January 11, 2013, at which point her sick leave bank time expired. The school system sent numerous notifications requesting the Appellant to return to work or resign, apply for retirement, or request an additional leave of absence, or risk termination. The Appellant did not return to work or notify the school system of any of the other options. Instead, the Appellant notified the school system that she was disputing her salary. On February 3, 2017, the local board issued an order terminating the Appellant based on willful neglect of duty.

STANDARD OF REVIEW

Because this appeal involves the termination of a certificated employee pursuant to §6-202 of the Education Article, the State Board exercises its independent judgment on the record before it in determining whether to sustain the termination. COMAR 13A.01.05.05F.

The State Board transferred this case to OAH for proposed findings of fact and conclusions of law by an ALJ. In such cases, the State Board may affirm, reverse, modify or remand the ALJ's proposed decision. The State Board's final decision, however, must identify and state reasons for any changes, modifications or amendments to the proposed decision. See Md. Code Ann., State Gov't §10-216. In reviewing the ALJ's proposed decision, the State Board must give deference to the ALJ's demeanor based credibility findings unless there are strong reasons present that support rejecting such assessments. See *Dept. of Health & Mental Hygiene v. Anderson*, 100 Md. App. 283, 302-303 (1994).

LEGAL ANALYSIS

The ALJ determined that the undisputed facts in the record and the law support a finding that the Appellant willfully neglected her duty when she failed to return to work or exercise another option, such as resign, apply for retirement, or request an additional leave of absence. The Appellant failed to do any of these despite repeated notifications by the school system that her failure to respond would result in her termination. The ALJ explained that although the Appellant believed her salary was incorrect, any pending salary dispute did not excuse the Appellant from returning to work. The ALJ further found that the school system provided the Appellant with appropriate due process. In response to Appellant's argument that the termination was retaliation for the discrimination/hostile work environment claim that she had filed against PGCPs, the ALJ found that the Appellant failed to provide any evidence to support such a claim. The Appellant did not file any exceptions to the ALJ's proposed decision.

Based on our review of the record, we concur with the conclusions of the ALJ. The Appellant was required to return to work or select one of the other options presented to her. She failed to do so and had no legally valid reason for her actions. There is no evidence that the local board violated her due process rights or that its decision is illegal.

CONCLUSION

We agree with the ALJ's assessment that the record in this case supports the local board's termination of the Appellant from her counselor position on the ground of willful neglect of duty. We, therefore, adopt the ALJ's Proposed Decision affirming the local board.

Signatures on File:

Andrew R. Smarick
President

Chester E. Finn, Jr.
Vice-President

Michele Jenkins Guyton

Justin Hartings

Stephanie R. Iszard

Rose Maria Li

Michael Phillips

Irene M. Zoppi Rodriguez

David Steiner

September 19, 2017