

ELNORA WINSTON

Appellant

v.

PRINCE GEORGE'S COUNTY
BOARD OF EDUCATION

Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR12-05

ORDER

The State Board received an appeal challenging the decision of the Prince George's County Board of Education (local board) terminating Appellant from her employment as a teacher with the school system for misconduct in office based on a fight with another teacher in the classroom.

We transferred this case pursuant to COMAR 13A.01.05.07 to the Office of Administrative Hearings (OAH) for a hearing before an Administrative Law Judge (ALJ). The local board filed a Motion to Dismiss the appeal. The ALJ proposes that the State Board grant the local board's Motion to Dismiss. Appellant has not filed exceptions to the ALJ's proposed decision.

The Findings of Fact are set forth on pp. 3—5 of the ALJ's Proposed Ruling. The Appellant filed a timely appeal to the local board. After receiving notice that Appellant was no longer represented by legal counsel, the hearing examiner wrote to Appellant on October 5, 2010 advising her that he would be reviewing the case and asking whether she would be represented at the hearing by legal counsel or proceeding without. He also asked that she provide him dates in October and November during which he could schedule a hearing unless she chose not to pursue the appeal. Appellant did not respond to the hearing examiner's letter.

The Appellant was hospitalized from October 26, 2010 until November 1, 2010. On November 4, 2010 she participated in a Workers' Compensation Commission (WCC) hearing regarding the claim she had filed for work related injuries suffered during the altercation with the teacher.

On March 15, 2011, having heard no response from the Appellant concerning her termination appeal, the hearing examiner recommended that the local board dismiss the case for lack of prosecution. Appellant, represented by the same legal counsel who represented her in the WCC case, participated in oral arguments held before the local board on April 28, 2010. The local board found that Appellant failed to pursue the appeal when she did not respond to the hearing examiner and terminated the Appellant for misconduct in office. The local board acknowledged that there was a period of time in October 2010 when Appellant was unable to

respond to the hearing examiner due to her hospitalization, but found that she could have responded before the March 15, 2011 recommendation given that she participated in the WCC hearing in November 2010.

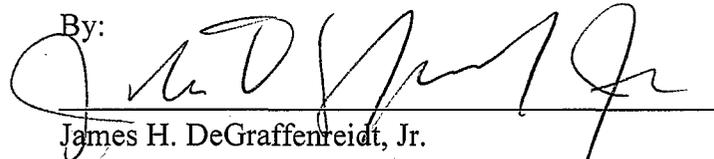
The ALJ found that the local board's decision was not arbitrary, unreasonable or illegal. He noted that it took Appellant's illness into account, but found that her failure to respond during the period from November 2010 to March 2011, in conjunction with her participation in the WCC hearing, justified the local board's determination that Appellant abandoned her appeal.

We concur with the ALJ and adopt his Proposed Ruling. Therefore, it is this 28th day of February, 2012, by the Maryland State Board of Education,

ORDERED, that the appeal is hereby dismissed based on Appellant's failure to prosecute the appeal before the local board.

MARYLAND STATE BOARD OF EDUCATION

By:



James H. DeGraffenreid, Jr.
President