

STATE BOARD OF EDUCATION

STATE OF GEORGIA

CAROLYN KNIGHTON,)
)
 Appellant,) CASE NO. 1986-41
)
 v.)
)
 DOUGHERTY COUNTY)
 BOARD OF EDUCATION,)
 Appellee.)

ORDER

THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after a vote in open meeting.

DETERMINES AND ORDERS, that the Findings of Fact and Conclusions of law of the Hearing Officer are made

DETERMINES AND ORDERS, that the decision of the Dougherty County Board of Education herein appealed from is hereby sustained.

This 11th day of December, 1986.

LARRY A. FOSTER, SR.
Vice Chairman for Appeals

**STATE BOARD OF EDUCATION
STATE OF GEORGIA**

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| CAROLYN KNIGHTON, |) | |
| |) | |
| Appellant, |) | CASE NO. 1986-41 |
| |) | |
| VI. |) | |
| |) | |
| DOUGHERTY COUNTY |) | |
| BOARD OF EDUCATION, |) | RECOMMENDATION OF |
| |) | HEARING OFFICER |
| Appellee. |) | |

PART I

SUMMARY

This is an appeal train a decision of the Dougherty County Board of Education (hereinafter "Local Board") not to renew Carolyn Knighton's (hereinafter "Appellant") teaching contract for the 1986-87 school year because of incompetency and willful neglect of duties. The Local Board's decision was a confirmation of a decision reached by a tribunal of the Professional Practices Commission (hereinafter "Tribunal") Appellant contends on appeal that the findings of the Tribunal, which were adopted by the Local Board, were contrary to the weight of the evidence, and the Local Board's decision was an abuse of discretion because the problems with her performance were caused by administrative actions and lack of actions. The Local Board contends that there was evidence to support the decision. The Hearing Officer recommends that the decision of the Local Board be sustained.

PART II

FACTUAL BACKGROUND

Appellant has taught for a total of twenty-three years, the last seventeen of which were in the Dougherty County School System (hereinafter "Local System") on April 11, 1986, Appellant was notified by the Local Board's Superintendent that her contract would not be renewed. Appellant exercised her rights under the Fair Dismissal Act and requested a written statement of the reasons and a hearing.

The Local Board notified Appellant that her contract was not being renewed because of incompetency, willful neglect of duties and other good and sufficient causes, all evidenced by:

- (1) Failure to maintain order and discipline in her classroom. This has been a continuing problem over the past two school years:
- (2) Failure to follow student record keeping procedures as outlined by reading and math management system. This has been a continuing problem over the past two school years; and
- (3) Failure to prepare and deliver to principal lesson plans in a timely manner. This has been a problem during the present school year.

A hearing was held June 11, 1986. At the hearing, testimony was presented by school administrators that Appellant had problems with her management, structure and record keeping; that they observed students throwing paper, turning desks over, and fighting during class; Appellant had not timely submitted the required assertive discipline plan: Appellant failed to send out letters regarding students attending summer school; and Appellant was not competent in management and control of the classroom.

The Tribunal concluded that Appellant:

1. was guilty of incompetence based upon her failure to maintain order and discipline in her classroom and her failure to follow record keeping procedures;

2. was guilty of willful neglect of duties based upon her failure to maintain order and discipline in her classroom and her failure to follow record keeping procedures.

The Tribunal concluded that the burden of proof had not been met that Appellant was guilty of incompetence or willful neglect of duties on account of her failure to prepare and deliver lesson plans in a timely manner. The Tribunal recommended that Appellant not be offered a contract for the 1986—87 school year. The Local Board met on August 13, 1986, and voted to follow the recommendation of the Tribunal. Appellant filed this notice of appeal to the State Board of Education by letter dated September 11, 1986.

PART III

DISCUSSION

Appellant contends on appeal that there was insufficient evidence to establish that she was guilty of willful neglect of duties. She cites Terry v. Houston Cnty. Bd. of Ed., 178 Ga. App. 296 (1986), as authority for the proposition that willful neglect requires a flagrant act or omission, or the intentional violation of a known rule or policy. In Terry, the Court found that a teacher who had permitted his students to view a video movie which he had not previewed had not committed a willful act. The Court adopted as its test of willful neglect of duty a requirement to show a flagrant act or omission, or an intentional violation of a known rule or policy, or a continuous course of reprehensible conduct. Mere negligence is insufficient to establish willful neglect of duties.

The Local Board is bound by the facts determined by the Tribunal. Beard v. Laurens Cnty. Bd. of Ed., Case No. 1977-14; Poland v. Cook Cnty. Bd. of Ed., Case No. 1977-4. Beard v. Laurens Cnty. Bd. of Ed., Case No. 1977-14; Poland v. Cook Cnty. Bd. of Ed., Case No. 1977—4. The Tribunal did not find that Appellant's failure to maintain order or discipline in her classroom and her failure to follow record keeping procedures were the results of flagrant acts of

omission, or the intentional violation of known rules or policies, or an intentional course of reprehensible conduct. The Tribunal found that Appellant had not maintained effective and consistent control over her students, had an excessive number of discipline problems, and had improperly maintained her records. None of these findings rise to the level of willfulness required by Terry, supra. Instead, they show that Appellant was not measuring up to the standards required; they do not show that Appellant intentionally violated the rules, or that her conduct was so reprehensible or flagrant.

The fact that Appellant's actions continued over a two-year period and after counseling also does not establish that her actions were of such intentional nature so as to rise to the level of willfulness. The Hearing Officer, therefore, concludes that there were insufficient facts found by the Tribunal to establish willful neglect of duty.

Appellant also contends that the evidence is insufficient to establish that she was incompetent. The State Board of Education follows the rule that if there is any evidence to support the decision of a local board of education, the decision will not be disturbed upon review. See, Ransum v. Chattooga Cnty. Bd. of Ed., 144 Ga. App. 783 (1978); Antone v. Greene Cnty. Bd. of Ed., Case No. 1976-11. This rule is controlling unless some error of law is shown, or the decision of a local board of education is an arbitrary and capricious decision.

The Tribunal found that Appellant had difficulty in maintaining order in her classroom, the principal had arranged workshops for Appellant, had counseled with her, and attempted to assist her in formulating plans to deal with the discipline problems. Appellant's contentions that the alleged classroom problems were a result of a lack of administrative support and the failure of the administration to take appropriate action on BD/LD referrals do not establish that the findings of the Tribunal were in error. The Tribunal had to weigh the evidence

presented by both the Local System and Appellant, and there is evidence in the record which supports the findings by the Tribunal. The Hearing Officer concludes that there was evidence sufficient to support a finding that Appellant was incompetent.

Appellant also contends on appeal that the alleged deficiencies in record keeping were of a minimal significance and that the essential problem was not in the records, but rather the deficiencies in student performance as revealed by the records. Appellant's contention also does not provide grounds for reversal of the decision of the Local Board. Whether the deficiencies in record keeping were of a minimal significance is a matter for the Local Board to take into account in making its decision not to renew Appellant. Unless that decision is an clear abuse of its discretion, such a judgment by the Local Board cannot be reversed on appeal. In the present case Appellant has not shown that the Local Board's decision with respect to the record keeping is such an abuse.

PART IV

RECOMMENDATION

Based on the foregoing discussion, the record presented, and the briefs and arguments of counsel, the Hearing Officer is of the opinion there was evidence to support the decision of the Local Board that Appellant acted incompetently, but the evidence does not establish willful neglect of duties. The Hearing Officer, therefore, recommends that the decision of the Local Board not to renew Appellant's contract on the grounds of incompetency be sustained.

L. O. Buckland
Hearing Officer