

#497-08 (OAL Decision: Not yet available online)

ROSE DAGANYA, :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 BOARD OF EDUCATION OF THE : DECISION
 TOWNSHIP OF OLD BRIDGE, :
 MIDDLESEX COUNTY, :
 :
 RESPONDENT. :

SYNOPSIS

Petitioner, a health and physical education teacher and coach in the respondent's school district, contends that the Board violated *N.J.S.A. 18A:30-2.1* when it failed to pay full salary without loss of sick time for an injury sustained in the course of her employment. At issue is whether the "full salary" to be provided to the petitioner includes the coaching stipend for field hockey that petitioner received for many years. The respondent Board contends that "full salary" as provided for in *N.J.S.A. 18A:30-2.1* means only the salary for petitioner's tenured position. Both parties separately filed motions for summary decision.

The ALJ found that entitlement to the benefits of the sick leave statute including "full salary" requires that the employee be either "steadily employed" or "protected by tenure", and concluded that although the petitioner is tenured as a physical education teacher, her position as field hockey coach is neither tenured nor considered steady employment for purposes of *N.J.S.A. 18A:30-2.1*. Accordingly, the ALJ granted summary decision to the Board.

The Commissioner concurred with the ALJ that, although petitioner is entitled to payment of full salary without loss of sick time for an injury sustained in the course of her employment pursuant to *N.J.S.A. 18A:30-2.1*, such full salary does not include payment of a stipend for an extracurricular coaching assignment she was unable to fulfill due to her work-related injury. Accordingly, the Initial Decision of the OAL was adopted, and the petition was dismissed.

<p>This synopsis is not part of the Commissioner's decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.</p>

December 30, 2008

OAL DKT. NO. EDU 8839-05
AGENCY DKT. NO. 278-10/05

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. Petitioner’s exceptions – dated December 3, 2008 and filed December 5, 2008 in response to an Initial Decision which was mailed on November 19, 2008 – were untimely pursuant to *N.J.A.C. 1:1-18.4*. Consequently, these exceptions and respondent’s reply thereto were not considered here.

Upon review, the Commissioner concurs with the Administrative Law Judge that, although petitioner is entitled to payment of full salary without loss of sick time for an injury sustained in the course of her employment pursuant to *N.J.S.A. 18A:30-2.1*, such “full salary” does not include payment of a stipend for an extracurricular coaching assignment she was unable to fulfill due to her work-related illness. (*See William J. DeGroot v. Board of Education of the Passaic County Regional High School, District No. 1, Passaic County, 1989 S.L.D. 16, aff’d State Board, 1989 S.L.D. 29, aff’d Appellate Division (December 1990).*)

Accordingly, the recommended decision of the OAL is adopted – for the reasons clearly articulated therein – as the final decision in this matter and the instant petition of appeal is hereby dismissed.

IT IS SO ORDERED.*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: December 30, 2008

Date of Mailing: December 30, 2008

* This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36*.