

**SUPERIOR COURT
OF THE
STATE OF DELAWARE**

JOHN A. PARKINS, JR.
JUDGE

**NEW CASTLE COUNTY COURTHOUSE
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**Re: Frances V. Angstadt v. Red Clay Consolidated School
District
C.A. No. 08C-03-051 JAP**

Submitted: August 20, 2009
Decided: September 11, 2009

On Defendant's Motion for Summary Judgment
GRANTED

Dear Counsel:

Before the Court are cross motions for summary judgment. The issue in both sets of motions is whether Red Clay complied with the required termination procedures as set forth in 14 *Del. C.* § 1410(b) when it decided

not to retain Plaintiff Frances V. Angstadt, a non-tenured teacher. The Court finds that Red Clay complied with § 1410(b). Defendant's motion for summary judgment is therefore **GRANTED** and Plaintiff's motion is **DENIED**.

I. FACTUAL AND PROCEDURAL HISTORY

In her opposition to Red Clay's motion for summary judgment Plaintiff adopted Red Clay's Statement of Facts. It is therefore an easy task for this Court to identify those facts which are not in dispute.

In August 2006, Cab Calloway School of the Arts, a Red Clay Consolidated School District public school, hired Ms. Angstadt as a drama teacher for the 2006-2007 school year. Although Ms. Angstadt had 15 years experience as a teacher in the Capital, Lake Forest and Smyrna School Districts, she was hired as a non-tenured teacher because she had less than two years service in Red Clay.¹

Over the course of the school year, Ms. Angstadt's interaction with the students drew concern from both staff and parents. Within days of the beginning of the school year a Red Clay administrator received a complaint

¹ In order to qualify for the termination protections provided tenured teachers by the Delaware Code, the teacher must have completed three years of service in the state as a teacher, at least two of which are with the terminating board. 14 Del. C. § 1403. Because Ms. Angstadt was in her first year at Red Clay, she did not satisfy the two year requirement.

about Plaintiff's interaction with a student. Just over two months later, on November 3, 2006, Dean Julie Rumschlag observed an incident between Ms. Angstadt and one of her students. Dean Rumschlag emailed Ms. Angstadt later that day:

I was shocked to see the way you spoke to [Student] earlier today when I passed by your classroom and he was standing in the hallway. What I saw was you yelling at him well beyond what is necessary as a teacher, particularly in this circumstance . . . I heard you yell at him, screaming that you had told him to stand out in the hall—stand here! You were the one that was not in control of the situation. You are the one who needs to be professional and remain calm in situations such as this one when students do not comply with your requests.²

In a responding email, Ms. Angstadt admitted that her interaction with the student was “severe” and would “not happen again.”³

On November 29, 2006, Dean Rumschlag met with Ms. Angstadt to discuss some parental concerns about Ms. Angstadt that had been reported to the school. Dean Rumschlag summarized the meeting in a follow up email to Ms. Angstadt noting that one concern discussed was “[i]nteracting with kids appropriately, i.e. not loosing control as an adult or yelling at them.”⁴ Ms. Angstadt responded to the Dean's email noting that this feedback was “helpful.”⁵

² App. to Def. Mot for Summ. J., D.I. 12, at A120.

³ *Id.*

⁴ *Id.* at A122.

⁵ *Id.*

On March 14, 2007, Ms. Angstadt received a cautionary note from Assistant Principal Dr. Joe Hocking regarding an incident where Ms. Angstadt grabbed ice cream out of the hands of students. The letter stated:

In the future, I would recommend not grabbing anything from a student unless they are in danger of hurting themselves or someone else . . . The teachers who you identified as witnessing the event confirmed that you seemed very angry . . . It is important that you always remain professional and avoid raising your voice at the students or allowing your anger to dictate your response to them.⁶

Ms. Angstadt signed an acknowledgment of receipt of Dr. Hocking's letter.

A week later, Ms. Angstadt received another written reprimand from Dean Rumschlag:

This morning I happened to be walking by your classroom when I heard you yelling at maximum volume at several students in your class . . . It is important that I reiterate to you that it is not appropriate to yell at students . . . The only time it would be appropriate to raise your voice as I heard today would be in a situation where there is imminent danger of a child that needs immediate and quick attention to ensure the safety of the child. *That was clearly not the case at all today when I arrived to your classroom.* It is my expectation that such an incident does not happen again.⁷

Ms. Angstadt signed an acknowledgement of receipt of the letter.

On April 19, 2007, Debra Davenport, the Human Resources Manager for Red Clay advised Ms. Angstadt by letter that the Board intended to terminate her services effective at the end of the 2006-2007 school year. In response to Ms. Davenport's letter, Ms. Angstadt requested the reasons for

⁶ *Id.* at A124.

⁷ *Id.* at A128 (emphasis in original).

her termination. Deputy Superintendent Diane Dunmon then sent Ms. Angstadt a letter identifying the following three reasons for termination: (1) inappropriate teacher/student interactions; (2) inconsistent and inappropriate student discipline; and (3) poor classroom management and organization.⁸

After receiving the reasons for termination, Ms. Angstadt requested a post-termination meeting with the Superintendent. The Superintendent met with Plaintiff and thereafter upheld the termination. He stated in a letter to Ms. Angstadt:

After your hearing on June 7, 2007, the documents which you submitted, as well as, information from the school were reviewed. Although the Principal and Assistant Principal confirmed that many of your classes were well done, the concern with teacher-student interactions and classroom management were ongoing. Screaming at students and losing control of the class is very ineffective and, as a 15-year teaching veteran is a serious concern . . . Based on this information, your request to rescind your non-renewal is being denied.⁹

Ms. Angstadt then filed a complaint in this Court against Red Clay seeking lost wages and benefits. She alleges that (1) Red Clay failed to comply with Delaware's Teacher Termination Statute and (2) Red Clay violated the implied duty of good faith and fair dealing.

II. STANDARD OF REVIEW

⁸ *Id.* at A213.

⁹ *Id.* at A223.

Summary judgment is appropriate where “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.”¹⁰ When considering a motion for summary judgment, the facts must be viewed “in the light most favorable to the nonmoving party.”¹¹ Furthermore, “[f]rom those accepted facts the court will draw all rational inferences which favor the non-moving party.”¹²

III. DISCUSSION

A. Red Clay did not violate the Delaware’s Teacher Termination Statute

Count I of the complaint alleges that Red Clay’s termination of Ms. Angstadt violated the statutory procedures for terminating a non-tenured teacher. A school district may decide not to rehire a non-tenured teacher for any constitutionally permissible reason as long as it complies with certain

¹⁰ Super. Ct. Civ. R. 56(c)

¹¹ *Mason v. USAA*, 697 A.2d 388, 392 (Del. 1997).

¹² *Merrill v. Crothall-American, Inc.*, 606 A.2d 96, 99 (Del. 1992).

notice requirements contained in 14 *Del. C.* § 1410(b).¹³ Specifically, §

1410(b) provides that:

A teacher who has not completed 3 years of service in the State . . . may, within 7 days of receiving notice of intention to terminate services, request in writing, the reason or reasons for such notice. The board will provide such reason or reasons in writing and a copy of this chapter no later than 5 days after receipt of such a request, provided that the stated reason or reasons must have . . . been contained in . . . documented materials properly placed in the teacher's personnel file prior to said notice . . . Within 7 days of receiving the reason or reasons for the notice of intention to terminate services, a teacher may request in writing a conference with the board's superintendent . . . Within 10 days of receiving such a request for a conference, the superintendent shall personally provide the teacher a conference to review the matter. The conference with the superintendent is final and conclusive.¹⁴

The scope of review here is extremely narrow. Section 1410 provides that the decision of the district's superintendent is "final and conclusive" and thus, absent constitutionally impermissible reasons such as race,¹⁵ this Court may not examine the school district's reasons to determine whether they in fact justified termination of the non-tenured teacher. Nor may this Court review the evidence to determine whether it supports the district's factual conclusions. Although the statutory scheme provides for limited judicial review of the termination of tenured teachers, including a determination whether the decision of the school board was supported by substantial

¹³ *Morris v. Bd. of Educ.*, 401 F. Supp. 188, 209 (D. Del. 1975) ("All that is required [to discharge a non-tenured teacher at the end of a school year] is an advance notice which need not specify the rationale of the termination decision.").

¹⁴ 14 *Del. C.* 1410(b).

¹⁵ No such allegation appears in the Complaint.

evidence,¹⁶ no such procedure is provided for non-tenured teachers. This Court's scope of review is consequently limited to a determination whether the school district substantially complied with the provisions of section 1410.

The gist of this case is whether the documentation of the reasons given to Plaintiff for her termination complies with 14 Del. C. §1410. That section provides in pertinent part that "the stated reason or reasons [for termination] must either have been contained in the teacher's performance appraisal, and the teacher was provided time to correct any deficiency through an individualized improvement plan or other documented materials properly placed in the teacher's personnel file prior to said notice."¹⁷ There are therefore two alternative methods for a school district to document the reasons for a non-tenured teacher's termination: either through (1) the teacher's performance appraisal with an individual improvement plan, or (2) documented materials properly placed in the teacher's personnel file. Plaintiff contends that her termination was invalid under the first alternative provided by section 1410 because the reasons were not included in her teacher performance appraisal and she was not given an opportunity to

¹⁶ 14 Del. C. § 1414 (The Court "shall sustain any board action, findings and conclusions supported by substantial evidence.")

¹⁷ 14 Del. C. § 1410(b)

correct any deficiencies. The Court need not reach this argument because it finds that Red Clay has satisfied the second alternative.

1. *The documents were “property placed” in Plaintiff’s file.*

With respect to the second alternative provided by section 1410, Plaintiff argues that Red Clay failed to comply because the “documented materials” referred to in section 1410 are limited to reprimands and that the emails and correspondence referred to earlier in this opinion were therefore not “properly placed” in her file because they are not “reprimands”. This contention is unsupported by the language of section 1410(b) and is also contrary to the remainder of the statutory scheme for the termination of non-tenured teachers. Plaintiff is unable to point to any language in section 1410 requiring that the reasons for terminating a non-tenured teacher must be contained in a reprimand. Her inability to do so is not surprising because no such language exists. Rather the General Assembly chose to use a broader term, “documented materials”. This Court cannot usurp the role of the General Assembly by substituting the term “reprimand” for the broader term chosen by the legislature.

There is a second reason why Plaintiff’s argument fails. The notion that the term “documented materials” is limited to reprimands is inconsistent with the remainder of the statutory scheme surrounding the termination of

non-tenured teachers. School districts are limited to certain reasons for terminating tenured teachers. These include immorality, misconduct in office, incompetency, disloyalty, neglect of duty and insubordination.¹⁸ On the other hand, the statutory scheme does not restrict the school district to these reasons when terminating a non-tenured teacher.¹⁹ Indeed, a school district is free to terminate a non-tenured teacher for any reason at all so long as that reason is not forbidden by the constitution. Engrafting the term “reprimand” onto “documented materials”, as Plaintiff urges the Court to do, would effectively limit the ability of a school district to terminate non-tenured teachers to those who were incompetent or subject to discipline. This is manifestly contrary to the express intent of the General Assembly.

Plaintiff points to language in *McCoy v. Sussex County Vocational-Technical School District*²⁰ as support for her contention that only reprimands constitute “documented materials.” In particular she relies upon the following passage from *McCoy*:

Under the Teacher Termination Statute, a non-tenured teacher is entitled to request the reasons for non-renewal of a professional contract, in writing within seven days of receipt of the notice of intent to terminate. If the teacher requests the reasons for his or her termination:

The Board will provide such reason(s) in writing ... no later than 5 days after receipt of such a request,

¹⁸ 14 Del. C. §1411.

¹⁹ 14 Del. C. §1410(a).

²⁰ 1998 WL 671280 (Del. Ch. Aug. 27, 1998)

provided that the stated reason(s) must have either been contained in the teacher's performance appraisal ... or other *documented materials properly placed in the teacher's personnel file* prior to [the May 15th] notice.

The highlighted language above refers to what are commonly known to teachers as reprimands.²¹

That case does not hold that “documented materials” is limited to reprimands. Rather the holding in that case was narrow—a reprimand which was rescinded as a result of an arbitrator’s order is not “properly placed” in that file. The *McCoy* court never had occasion to consider whether documents other than reprimands are included within the term “documented materials.” Consequently its holding does not support the instant plaintiff’s case.

2. *Red Clay substantially complied with section 1410.*

Plaintiff also argues that the documented materials were not found in her personnel file. This requires the Court to determine whether Red Clay substantially complied with the statute. It is “well established that substantial compliance with Chapter Fourteen of [title 14 of] the Delaware Code is sufficient absent prejudice to the teacher.”²² The Supreme Court long ago dismissed trivial violations of chapter 14:

We are mindful of the fact that teacher-tenure acts are intended to furnish protection to the public school teacher and that their

²¹ *Id.* at *4-5 (emphasis and insertion in original).

²² *Brumbley v. Bd. Of Educ. Of the Polytech School District*, 1998 WL 283378 (Del. Super. Feb. 18, 1998).

provisions in respect of dismissal must be substantially complied with. But substantial compliance is enough. What is the underlying purpose of our status? Plainly, to accord to the teacher the right to a notice if his services are intended to be terminated, and the right to a hearing if he is unwilling to accept the intention to terminate as final. Of neither of these rights has the defendant been deprived. The policy and purpose of the statute have been complied with. In justice to the efficient administration of the school system we cannot agree to the setting aside of the proceedings in this case because of a belated technical objection which in no way prejudiced the teacher.²³

The purpose of requiring the school district to place the materials in a teacher's file before the teacher is terminated is to ensure that the teacher had time access to them. Here it is undisputed that Plaintiff received the emails and notices at or about the time they were written and thus she had timely access to the documented materials. Under these circumstances the Court is unwilling to expose a school district to liability for back pay and benefits simply because an administrator or an assistant failed to put copies of these documents in the correct red well. In short, the undisputed evidence shows that Red Clay substantially complied with the statutory obligations it owed Plaintiff.

B. Red Clay did not breach the Implied Covenant of Good Faith and Fair Dealing.

Count II of the complaint alleges that Red Clay breached the implied covenant of good faith and fair dealing "by terminating Plaintiff based upon

²³ *Board of Public Education in Wilmington v. Delaney*, 155 A.2d 51, 54-5 (Del. 1959).

falsified or manipulated records.”²⁴ Ms. Angstadt, however, has failed to present any evidence whatsoever of “falsified or manipulated records.”

At oral argument, for the first time, Ms. Angstadt contended that Red Clay breached the implied covenant because its “true motivation” for her termination was retaliation. No such allegation is contained in the complaint and therefore the Court will disregard it. Accordingly Count II will be dismissed.

IV. CONCLUSION

For the reasons stated above, Defendant’s motion for summary judgment is **GRANTED**.

IT IS SO ORDERED.

cc: Prothonotary



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PROTHONOTARY

²⁴ Compl., D.I. 1, at ¶ 37.