

TIMOTHY DAVIS,

Appellants

v.

PRINCE GEORGE'S
COUNTY BOARD OF
EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 25-14

OPINION

INTRODUCTION

This is an appeal of the Prince George's County Board of Education's ("local board's") decision affirming the termination of Appellant following his abandonment of his position as a mechanic with Prince George's County Public Schools ("PGCPS"). The local board filed a response to the appeal maintaining that its decision is not arbitrary, unreasonable, or illegal and should be upheld. Appellant responded, and the local board replied.

FACTUAL BACKGROUND

Timothy Davis ("Appellant") was terminated from his mechanic position on the grounds of misconduct in office and willful neglect of duty for failure to report to work to fulfill his job responsibilities for three or more consecutive days. During the 2023-2024 school year, Appellant worked as an automotive mechanic II for PGCPS. Appellant last reported for work on or about January 13, 2023. (R. 10). On February 17, 2023, Appellant's failure to appear for work was referred to the Employee and Labor Relations Office ("ELRO"). (R. 10).

The PGCPS Employee Code of Conduct requires employees to report to work on time as scheduled in accordance with PGCPS Administrative Procedure ("AP") 4153, *Time and Attendance*. (R. 154). PGCPS Administrative Procedure 4153, Section IV(I)(3) provides that for a no call/no show of three or more consecutive workdays, absent extenuating circumstances, an employee will be considered to have abandoned the job and the matter shall be referred to the ELRO which will give the employee an opportunity to attend a *Loudermill* meeting, and will make a recommendation whether the employee will be separated from employment in compliance with the applicable negotiated labor agreement and the regulations for supporting personnel. (R. 145). Article 4, Section 4 (H:1) of the Mutual Agreement between PGCPS and the American Federation of State, County, and Municipal states:

An employee who fails to report to work for three consecutive workdays without authorized leave shall be separated from payroll and reported as "quit." An employee who quits is not eligible for reemployment.

(R. 89). The Regulations for Supporting Personnel, *Resignation/Quits*, Section II states:

An employee who fails to report to work for three (3) consecutive works days without authorized leave shall be separated from the payroll and his/her service record shall be noted, “Job Abandonment.” Such an employee may only be reinstated if it is determined that circumstances were such as to make it impossible for the employee to notify his/her supervisor.

(R. 73). Section I of the Regulations requires an employee to give his/her supervisor at least fourteen calendar days prior notice in writing to resign in good standing. *Id.*

Cynthia Perry, ELRO Advisor, was assigned this matter and investigated the allegation of abandonment. She confirmed that there was not a legitimate reason for Appellant’s failure to appear for work such as approved leave, an open worker’s compensation claim, an accommodation request, or a retirement request. (R. 13, 49 – 62). By letter dated March 20, 2023, ELRO notified Appellant of the *Loudermill* meeting scheduled for April 12, 2023. (R. 63).

On April 12, 2023, a *Loudermill* meeting was conducted by Ms. Perry. The Appellant did not attend the meeting, but his union representative attended. (R. 10). On April 24, 2023, Kristie Murphy Baldwin, Chief Human Resources Officer for PGCPs and the Superintendent’s Designee, notified the Appellant by letter that he was separated from employment due to his failure to report to work for three or more days which constitutes misconduct in office and willful neglect of duty in accordance with the Mutual Agreement, as well as the applicable policies, procedures and the regulations as detailed in the letter. (R. 63-64).

On May 22, 2023, the Appellant appealed the letter of separation pursuant to §4-205 of the Education Article. On July 19, 2023, the local board appointed a Hearing examiner, Kia Chandler, Esq., to hear Appellant’s appeal. Ms. Chandler sent Appellant notice of the hearing scheduled for January 8, 2024. (R. 166). During September 2023, the parties engaged in settlement discussions. (R. 3). On October 17, 2023, the Appellant notified the Hearing Examiner that he wanted to proceed with the appeal. *Id.*

A hearing was conducted on January 8, 2024. The Appellant failed to appear. Ms. Perry testified on behalf of the Superintendent. On February 19, 2024, the Hearing Examiner issued her Findings of Fact, Conclusions of Law, and Recommendation. (R. 8- 16). The Hearing Examiner concluded that the Appellant had failed to meet his burden to prove that the separation was either arbitrary, unreasonable, or illegal and recommended that separation from employment should be upheld on the grounds of misconduct in office and willful neglect of duty for job abandonment in violation of PGCPs Administrative Procedure 4153 and the PGCPs Employee Code of Conduct. (R. 15-16).

The local board considered the appeal on the record. By Order dated September 19, 2024, the local board denied the Appellant’s appeal and affirmed the Superintendent’s decision to terminate the Appellant based on the grounds of willful neglect of duty and misconduct. (R. 3). The local board notified the Appellant of its Order by letter dated October 30, 2024. (R. 4). On November 29, 2024, the Appellant appealed the local board Order to the State Board.

STANDARD OF REVIEW

In *Venter v. Howard Cnty. Bd. of Educ.*, MSBE Op. No. 05-22 (2005), *aff'd* 185 Md. App. 648, *cert. denied*, 410 Md. 561 (2009), the State Board held that a non-certificated employee is entitled to an administrative appeal of a termination pursuant to §4-205(c)(3) of the Education Article. The standard of review that the State Board applies to such a termination is that the local board's decision is considered *prima facie* correct. The State Board will not substitute its judgment for that of the local board unless the decision is arbitrary, unreasonable, or illegal. COMAR 13A.01.05.06A. The Appellant has the burden of proof by a preponderance of the evidence. COMAR 13A.01.05.06D.

LEGAL ANALYSIS

In his appeal to the State Board, the Appellant does not dispute that he abandoned his job but requests the State Board to remove the termination from his file. He argues that he attempted to resign from his position on or about April 10, 2023, because of personal illness. *See* Appeal, Ex. 1. However, the record before us demonstrates that the Hearing Officer was aware of the Appellant's attempt to resign from his employment in lieu of termination but concluded that the "Appellant did not resign from his position in accordance with the terms acceptable to PGCPs" and concluded that "Appellant did in fact abandon his job" and was properly terminated for misconduct and willful neglect of duty. (R. 14-15). Furthermore, Ms. Perry testified that the Appellant did not report any health issues to her that would have prevented him from working and if he had she would have assisted him with submitting his resignation. (R. 34-35).

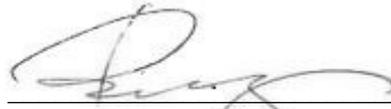
In addition, regarding the attempted resignation, the local board regulations require the Appellant to provide his supervisor with at least fourteen (14) calendar days prior notice in writing to resign in good standing. *Id.* This did not occur. Rather, the Appellant stopped reporting to work without any notice or accommodation requests due to any health conditions. Based on the record in this case, the local board's decision to terminate the Appellant was appropriate and the Appellant has not met his burden to show otherwise.

CONCLUSION

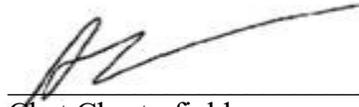
For the reasons stated above, we find that the Appellant has failed to show by a preponderance of the evidence that the decision of the local board was arbitrary, unreasonable, or illegal. Accordingly, we affirm the decision to terminate the Appellant from his position with PGCPs.


Joshua L. Michael
President

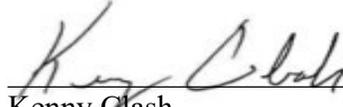

Monica Goldson
Vice-President



Chuen-Chin Bianca Chang



Chet Chesterfield



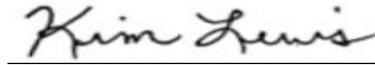
Kenny Clash



Clarence C. Crawford



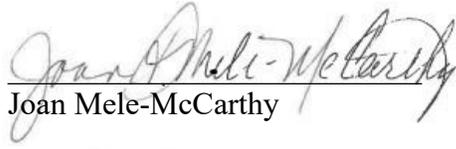
Nick Greer



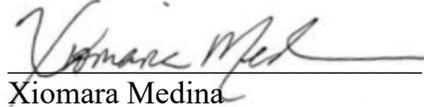
Kim Lewis



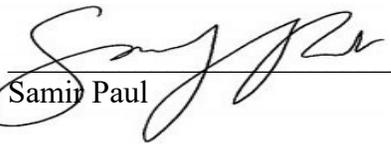
Rachel McCusker



Joan Mele-McCarthy



Xiomara Medina



Samir Paul

Absent:
Irma Johnson

March 25, 2025