

JOY WOODS,

Appellant

v.

BALTIMORE CITY BOARD
OF SCHOOL
COMMISSIONERS,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 24-02

OPINION

INTRODUCTION

The Appellant, who was employed by Baltimore City Public Schools as a certificated teacher, appeals the April 25, 2023, decision of the Baltimore City Board of School Commissioners (“local board”) terminating her from her position based on misconduct in office, willful neglect of duty, and insubordination related to her failure to report to work.

We transferred the case pursuant to COMAR 13A.01.05.07 to the Office of Administrative Hearings (“OAH”) for review by an Administrative Law Judge (“ALJ”). On October 20, 2023, the ALJ issued a Proposed Ruling on Motion for Summary Decision recommending that the State Board uphold the local board’s decision terminating the Appellant from employment.

The Appellant did not file any exceptions to the ALJ’s proposed decision.

FACTUAL BACKGROUND

The factual background in this case is set forth in the ALJ’s proposed decision, Stipulation of Undisputed Facts, pp.4-5 and Additional Undisputed Facts, pp. 5-7.

STANDARD OF REVIEW

Because this appeal involves the termination of a certificated employee pursuant to §6-202 of the Education Article, the State Board exercises its independent judgment on the record before it in determining whether to sustain the termination. COMAR 13A.01.05.06F.

The State Board transferred this case to OAH for proposed findings of fact and conclusions of law by an ALJ. In such cases, the State Board may affirm, reverse, modify or remand the ALJ’s proposed decision. The State Board’s final decision, however, must identify and state reasons for any changes, modifications or amendments to the proposed decision. *See* Md. Code Ann., State Gov’t §10-216(b).

LEGAL ANALYSIS

The ALJ decided this case on a motion for summary decision filed by the local board maintaining that its decision to terminate the Appellant from her teaching position should be upheld. The Appellant did not respond to the motion.

Based on the undisputed material facts, the ALJ determined that the local board was entitled to judgment in its favor as a matter of law because the Appellant waived all claims in the appeal when she failed to appeal her termination to the local board. The ALJ further determined that Appellant committed acts of misconduct in office, willful neglect of duty, and insubordination when she failed to report to work, failed to notify school administrators of her absences, and failed to comply with the principals’ numerous directives to report to work. We have reviewed the record and concur with the conclusions of the ALJ.

CONCLUSION

We agree with the ALJ’s assessment that the record in this case supports the local board’s termination of the Appellant from her teaching position on the grounds of misconduct in office, willful neglect of duty, and insubordination. We, therefore, adopt the ALJ’s Proposed Ruling on Motion for Summary Decision affirming the local board.

Signatures on File:

Clarence C. Crawford
President

Joshua L. Michael
Vice-President

Chuen-Chin Bianca Chang

Susan J. Getty

Monica Goldson

Nick Greer

Irma E. Johnson

Joan Mele-McCarthy

Samir Paul

Holly Wilcox

Absent:
Shawn D. Bartley

January 23, 2024

JOY WOODS

v.

**BALTIMORE CITY BOARD OF
SCHOOL COMMISSIONERS**

*** BEFORE ANN C. KEHINDE,
* AN ADMINISTRATIVE LAW JUDGE
* OF THE MARYLAND OFFICE
* OF ADMINISTRATIVE HEARINGS
* OAH No.: MSDE-BE-01-23-14948**

* * * * *

**PROPOSED RULING ON MOTION
FOR SUMMARY DECISION**

STATEMENT OF THE CASE
ISSUE
SUMMARY OF THE EVIDENCE
STATEMENT OF UNDISPUTED FACTS
DISCUSSION
CONCLUSION OF LAW
PROPOSED ORDER

STATEMENT OF THE CASE

On March 31, 2023, the Chief Executive Officer (CEO) for the Baltimore City Board of School Commissioners (BCBSC), notified Joy A. Woods (Appellant), a classroom teacher for the BCBSC, that she was recommending that the Appellant's employment with the BCBSC be terminated on the grounds of insubordination, willful neglect of duty, and misconduct in office (Charges). Md. Code Ann., Educ. § 6-202(a)(1) (Supp. 2022). The Charges further notified the Appellant that she had a right to a hearing before the BCBSC and needed to request that hearing within ten days of March 31, 2023. The Charges further notified the Appellant that if she requested a hearing, the BCBSC would assign the matter to one of its hearing examiners and an evidentiary hearing would be held in which she would have the right to appear, be represented, and present witnesses. Finally, the Charges informed the Appellant that if she did not request a hearing, the matter would be submitted to the BCBSC at its next regularly scheduled board meeting.

The Appellant did not request a hearing. On April 25, 2023, the BCBSC affirmed the recommendation of the CEO for the “timely and immediate dismissal of [the Appellant], a teacher assigned to Leith Walk Elementary School #245, for willful neglect of duty, insubordination, and misconduct.” (BCBSC Ex. 7).

On May 3, 2023, the BCBSC notified the Appellant that the BCBSC voted to accept the CEO’s recommendation and that she had the right to appeal the decision within thirty days to the Maryland State Department of Education (MSDE). Code of Maryland Regulations (COMAR) 13A.01.05.

The Appellant appealed to the MSDE on May 4, 2023. Md. Code Ann., Educ. § 6-202(a)(4) (2018). On June 5, 2023, the MSDE referred the matter to the Office of Administrative Hearings (OAH) for further proceedings.

On August 22, 2023, I conducted a pre-hearing conference by video and on August 28, 2023, I issued a Prehearing Conference Report and Order (Prehearing Order). As part of the Prehearing Order, I instructed BCBSC to file its Motion for Summary Decision by September 8, 2023. I further ordered that the Appellant file her Response to the Motion for Summary Decision by September 22, 2023. Finally, I ordered that BCBSC’s Reply was due on September 30, 2023, and I would issue a Ruling on the Motion for Summary Decision by October 30, 2023.

Denise Williams, Esquire, filed BCBSC’s Motion for Summary Decision (Motion) on September 7, 2023. The Motion was accompanied by an Affidavit of Ashanti Chambers (BCBSC Ex. 1) with seven attachments, an Affidavit of Mary Ellen Quinn Johnson (BCBSC Ex. 2) with five attachments and Exhibit 3.

The Appellant did not file a Response to the Motion by September 22, 2023. As of the date of this Proposed Ruling on Motion for Summary Decision, no Response or communication has been received from the Appellant. Therefore, I closed the record as of September 22, 2023.

Procedure in this case is governed by the contested case provisions of the Administrative Procedure Act, the procedural regulations for appeals to the MSDE, and the Rules of Procedure of the OAH. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2021 & Supp. 2023); COMAR 13A.01.05; COMAR 28.02.01.

ISSUE

Is BCBSC entitled to summary decision as a matter of law?

SUMMARY OF THE EVIDENCE

In support of its Motion, the BCBSC submitted the following exhibits, which I have considered in ruling on the Motion as they were unopposed:

BCBSC Ex. 1: Affidavit of Ashanti Chambers, August 31, 2023, with the following attachments:

- Attachment 1: Email from Ms. Chambers to Appellant, September 13, 2022
- Attachment 2: Emails between Ms. Chambers and Appellant, September 26, 2022
- Attachment 3: Emails between Ms. Chambers and Appellant, October 9, 2022
- Attachment 4: Email from Ms. Chambers to Appellant, October 11, 2022, letter of reprimand from Ms. Chambers to Appellant, October 10, 2022, excerpts from Employee Handbook
- Attachment 5: Emails between Ms. Chambers and Appellant, October 11-13, 2022
- Attachment 6: Emails between Ms. Chambers and Appellant, November 30, 2022, December 16-17, 2022
- Attachment 7: Emails between Jerome Jones and Mary Ellen Quinn Johnson, March 28, 2023, emails between Ms. Chambers and Appellant, March 28, 2023

BCBSC Ex. 2: Affidavit of Mary Ellen Quinn Johnson, August 31, 2023, with the following attachments:

- Attachment 1: Email from Ms. Quinn Johnson to Appellant, March 29, 31, 2023
- Attachment 2: Cover letter from Emily Nelson and Statement of Charges, March 31, 2023
- Attachment 3: Emails between Ms. Quinn Johnson and Appellant, August 22, 2023
- Attachment 4: Letter and Order from Dawana Sterrette, Esquire, to Appellant and CEO, May 3, 2023
- Attachment 5: Email between Eric Gordon and Tenesha Moore, May 3, 2023

BCBSC Ex. 3: Policy: Procedures in Hearings Requested Under § 6-202 of the Education Article

The Appellant did not respond to the Motion.

STIPULATION OF UNDISPUTED FACTS

The following facts were stipulated to by the parties at the Prehearing Conference and are therefore undisputed:

1. The Appellant was assigned to Leith Walk Elementary School (Leith Walk), Baltimore City Public Schools (BCPS), for the 2022-23 school year.¹
2. Ashanti Chambers was the Principal of Leith Walk during the 2022-23 school year and the Appellant's direct supervisor.
3. The last day the Appellant was physically present at Leith Walk was on Friday, October 1, 2022. She did not report to teach at Leith Walk from Monday, October 3, 2022, through and including Friday, March 31, 2023.

¹ The BCBSC asserted the Appellant was assigned to Leith Walk and was teaching fourth grade. The Appellant stated that she was hired as a first-grade teacher, but the Principal assigned her to the fourth grade on or about the first day of school.

4. The Appellant received several email communications from Ms. Chambers, dated September 13, 2022 through October 17, 2022, regarding her absence.
5. The Appellant attended a pre-termination hearing on March 29, 2023.
6. Mary Ellen Quinn Johnson, Office of Human Capital (HC), BCPS, conducted the pre-termination hearing. The Appellant and her union representative² were present.
7. On or about March 31, 2023, the Appellant was issued a Statement of Charges for insubordination, misconduct, and willful neglect of duty.
8. The Appellant did not request a hearing on the matter before the BCBSC pursuant to Section 6-202 of the Education Article and BCBSC Policy BLB.³
9. On April 25, 2023, the BCBSC voted to adopt the recommendation of the CEO to dismiss the Appellant as an employee of the BCPS.

ADDITIONAL UNDISPUTED FACTS

I further find the following facts by a preponderance of the evidence:

1. Ms. Chambers sent emails to the Appellant on October 8, 9, 11, 12, 13, and 17, 2022 requesting to know whether the Appellant intended to report for work and/or directing her to report to Leith Walk and meet with Ms. Chambers. The Appellant did not comply.
2. On October 10, 2022, the Principal issued a written Reprimand to the Appellant for failing to appear for work, failing to notify her direct supervisor of her absence, and failing to complete a leave form. The Appellant was notified that her conduct constituted a willful neglect of duty under Section 6-202 of the Education Article and was a violation of policy.

² The Appellant's union representative was Kelly Hope.

³ The Appellant commented that she was not aware of the steps that needed to be taken to request a hearing. Counsel for the BCBSC directed the Appellant to BCBSC's pre-marked exhibit 4, the March 31, 2023 letter from Emily Nielson, Chief Human Capital Officer, which contained appeal rights in the third paragraph.

The Appellant was informed that further breaches of policy or the standards could subject her to “disciplinary action up to and including termination.”

(BCBSC Ex. 1, attachment 4).

3. On October 11, 2022, the Appellant emailed the HC stating that she was “exhausted” due to finishing her doctoral program, taking classes necessary for her certification, and teaching.
4. On November 30, 2022, the Appellant emailed Ms. Chambers to ask about the status of her position. Ms. Chambers responded that the Appellant needed to contact HC because Ms. Chambers contacted HC on November 15, 2022 to inform HC that the Appellant had stopped reporting to work and stopped communicating with her.
5. On March 29, 2023, a *Loudermill* pretermination hearing was held. The Appellant testified that she did not report to work at Leith Walk because she had “issues with her certification” and “difficulty with where I was.” The Appellant testified that she was ill between October 3 and early-November, 2022, and that the Principal was aware of her illness.⁴ The Appellant did not provide any documentation to HC or the Principal requesting medical leave or any other type of leave (BCBSC Ex. 2, attachment 2).
6. On March 31, 2023, immediately following Appellant’s receipt of the Statement of Charges, the Appellant emailed Ms. Quinn Johnson and Dr. Sonja Santelises, CEO for BCPS, expressing her displeasure with the decision to recommend her termination.
(BCBSC Ex. 2).

⁴ During the Prehearing Conference, the Appellant stated that she suffered from depression and the Principal was aware that she suffered from depression.

7. On March 31, 2023, Ms. Quinn Johnson responded to the Appellant and advised her to review the instructions regarding her right to contest the recommendation and the process for doing so. (BCBSC Ex. 2).
8. The Appellant did not request a hearing on the matter before BCBSC to contest the recommendation pursuant to Section 6-202 of the Education Article and Board Policy BLB. (BCBSC Exs. 2, 3).

DISCUSSION

Legal Standard

The MSDE referred this case to the OAH for a hearing in accordance with section 6-202 of the Education Article of the Maryland Code. Section 6-202 provides that on the recommendation of the county superintendent, a teacher may be dismissed for insubordination and misconduct in office. In a case transferred by the MSDE to the OAH, hearing procedures are in accordance with the Administrative Procedure Act and the OAH's Rules of Procedure, except as otherwise provided by the MSDE regulations. COMAR 13A.01.05.07D. The MSDE regulations do not contain procedures for motions; accordingly, the OAH Rules of Procedure apply. OAH Rules of Procedure provide for consideration of a motion for summary decision under COMAR 28.02.01.12D. That regulation provides as follows:

D. Motion for Summary Decision.

(1) A party may file a motion for summary decision on all or part of an action on the ground that there is no genuine dispute as to any material fact and the party is entitled to judgment as a matter of law.

(2) A motion for summary decision shall be supported by one or more of the following:

- (a) An affidavit;
- (b) Testimony given under oath;
- (c) A self-authenticating document; or
- (d) A document authenticated by affidavit.

(3) A response to a motion for summary decision:

- (a) Shall identify the material facts that are disputed; and
- (b) May be supported by an affidavit.

(4) An affidavit supporting or opposing a motion for summary decision shall:

(a) Conform to Regulation .02 of this chapter;
(b) Set forth facts that would be admissible in evidence; and
(c) Show affirmatively that the affiant is competent to testify to the matters stated.

(5) The ALJ may issue a proposed or final decision in favor of or against the moving party if the motion and response show that there is no genuine dispute as to any material fact and that the party in whose favor judgment is entered is entitled to judgment as a matter of law.

The Local Board supported its motion with authenticated documents and affidavits.

COMAR 28.02.01.12D(2). Accordingly, the motion is properly treated as one for summary decision. *See Davis v. DiPino*, 337 Md. 642, 648 (1995) (noting distinctions between a motion to dismiss and a motion for summary judgment including that under the Maryland Rules a motion to dismiss is converted into a motion for summary judgment “when a trial court considers matters outside the pleadings in reaching its decision”). Deciding this case pursuant to a motion for summary decision also comports with the MSDE’s regulation, that provides that the “State Board may decide the appeal on the merits based on the filings.”). COMAR 13A.01.05.03(c)(4).

The requirements for summary decision under the OAH Rules of Procedure are similar to those for summary judgment under Maryland Rule 2-501. *Assateague Coastkeeper v. Md. Dep’t of Env’t*, 200 Md. App. 665, 698-99 (2011). Accordingly, I may look to the Maryland Rules and Maryland case law interpreting those rules to analyze a motion for summary decision.

On a motion for summary decision, the moving party bears the initial burden. COMAR 28.02.01.21K(3). I may grant a motion for summary decision and dismiss the hearing request in this case only if I find that there is “no genuine dispute as to any material fact and that the party in whose favor judgment is entered is entitled to judgment as a matter of law.” COMAR 28.02.01.12D(5); *see also Metro. Mortg. Fund, Inc. v. Basiliko*, 288 Md. 25, 28 (1980). Only a genuine dispute as to a material fact is relevant in opposition to a motion for summary decision. *Seaboard Sur. Co. v. Kline, Inc.*, 91 Md. App. 236, 242 (1992).

A material fact is defined as one that will “somehow affect the outcome of the case.” *King v. Bankerd*, 303 Md. 98, 111 (1985) (quoting *Wash. Homes, Inc. v. Interstate Land Dev. Co., Inc.*, 281 Md. 712, 717 (1978)).

To prevail on a motion for summary decision, the moving party must identify the relevant legal cause of action or legal defense and then set forth sufficient, undisputed facts to satisfy the elements of the claim or defense or detail the absence of evidence in the record to support an opponent’s claim. *See Bond v. NIBCO, Inc.*, 96 Md. App. 127, 134-36 (1993). If the moving party meets this initial burden, the opposing party must come forward with admissible evidence that establishes a genuine dispute of material fact, after all reasonable inferences are drawn in the opposing party’s favor. *Beatty v. Trailmaster Prods., Inc.*, 330 Md. 726, 737-39 (1993); *see also Masson v. New Yorker Magazine, Inc.*, 501 U.S. 496, 520 (1991) (stating that a judge must “draw all justifiable inferences in favor of the nonmoving party”).

The OAH procedural regulations do not require a party to support an answer to a motion for summary decision with an affidavit, but they do require a response to identify the material facts that are disputed. COMAR 28.02.02.12D(3). A general denial is not sufficient to establish a genuine dispute of material fact to defeat a motion for summary decision. *Alamo Trailer Sales, Inc. v. Howard Cty. Metro. Comm’n*, 243 Md. 666, 671 (1966). Only where the material facts are “conceded, undisputed, or uncontroverted” and the inferences to be drawn from those facts are “plain, definite, and undisputed” does their legal significance become a matter of law for summary determination. *Fenwick Motor Co. v. Fenwick*, 258 Md. 134, 139 (1970).

In considering a motion for summary decision, it is not my responsibility to decide any issue of fact or credibility but only to determine whether such issues exist. *See Eng’g Mgt. Servs., Inc. v. Md. State Highway Admin.*, 375 Md. 211, 226 (2003). Additionally, the purpose of the summary decision procedure is not to try the case or to decide the factual disputes, but to

decide whether there is an issue of fact, which is sufficiently material to be tried. *See Goodwich v. Sinai Hosp. of Balt., Inc.*, 343 Md. 185, 205-06 (1996); *Coffey v. Derby Steel Co.*, 291 Md. 241, 247 (1981); *Berkey v. Delia*, 287 Md. 302, 304 (1980). As the United States Supreme Court observed, with respect to genuine disputes of *material* fact, “this standard provides that the mere existence of *some* alleged factual dispute between the parties will not defeat an otherwise properly supported motion for summary judgment” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247-48 (1986) (emphasis in original).

The Appellate Court of Maryland⁵ has discussed what constitutes a “material fact,” the method of proving such facts, and the weight a judge ruling upon such a motion should give the information presented:

A material fact is a fact the resolution of which will somehow affect the outcome of the case. A dispute as to a fact ‘relating to grounds upon which the decision is not rested is not a dispute with respect to a *material* fact and such dispute does not prevent the entry of summary judgment.’ We have further opined that in order for there to be disputed facts sufficient to render summary judgment inappropriate there must be evidence on which the jury could reasonably find for the plaintiff.

. . . The trial court, in accordance with Maryland Rule 2-501(e), shall render summary judgment forthwith if the motion and response show that there is no genuine dispute as to any material fact and that the moving party is entitled to judgment as a matter of law. The purpose of the summary judgment procedure is not to try the case or to decide factual disputes, but to decide whether there is an issue of fact that is sufficiently material to be tried. Thus, once the moving party has provided the court with sufficient grounds for summary judgment, [i]t is . . . incumbent upon the other party to demonstrate that there is indeed a genuine dispute as to a material fact. He does this *by producing factual assertions, under oath*, based on the personal knowledge of the one swearing out an affidavit Bald, unsupported statements or conclusions of law are insufficient.

Tri-Towns Shopping Ctr., Inc. v. First Fed. Sav. Bank of W. Md., 114 Md. App. 63, 65-66 (1997)

(citations and quotations omitted) (emphasis in original). For the reasons articulated below, I grant the motion.

⁵ Formerly the Court of Special Appeals.

Positions of the Parties

BCBSC argues it is entitled to summary decision because the Appellant waived all claims related to this appeal when she acquiesced to her termination by failing to request an evidentiary hearing with BCBSC. (Motion, p. 5). Further BCBSC argued that it was entitled to terminate the Appellant because her conduct constituted insubordination, misconduct, and willful neglect of duty. (Motion, p. 6).

The Appellant did not file a Response to the Motion.

Analysis

As the Appellant did not dispute any material facts in this case, and as BCBSC is entitled to judgment as a matter of law, I will grant BCBSC' Motion for Summary Decision.

The undisputed material facts in this case are that, on March 31, 2023, the Appellant received written notice that a Statement of Charges recommending her termination was approved. (BCBSC Ex. 2, attachment 2). It is also undisputed that the Statement of Charges informed the Appellant that she had the right to a hearing before the Board prior to the termination and that her request for a hearing had to be received within ten days of the March 31, 2023; that is, by Monday, April 10, 2023. Ms. Quinn Johnson also highlighted the Appellant's appeal rights in an email response to the Appellant on March 31, 2023. (BCBSC Ex. 2, attachment 3). It is also undisputed that the Appellant did not exercise her right to request a hearing within ten days or at any time before the Board issued its decision on April 25, 2023 affirming the Appellant's termination. (BCBSC Ex. 2, attachment 4).

BCBSC supported its argument that the Appellant waived any and all claims in her appeal because she failed to request a hearing to the local board with a Maryland State Board of Education (MSBE) opinion. In *Elizabeth J. Pensyl v. Cecil Co. Board of Educ.*, MSBE Op. No. 05-10 (2005), MSBE held that "the right to appeal may be lost by acquiescence in, or recognition

of, the validity of the decision below from which the appeal is taken or by otherwise taking a position which is inconsistent with the right of appeal.” MSBE further elaborated that when the Appellant:

failed to object to the Superintendent’s termination recommendation and failed to request a hearing on the matter before the local board prior to its final termination...acquiesced in the Superintendent’s recommendation to terminate her

Id., 4 (internal citations omitted).

MSBE further explained that it has consistently “declined to address issues that have not been reviewed initially by the local board.” *Id.*, 4 (internal citations omitted).

I am bound by prior decisions by the MSBE on the issue of the Appellant’s waiver of her claims to the same extent the MSBE is bound by such decisions. *See* Md. Code Ann., State Gov’t. § 10-214(b) (2021). As such, I agree that as a matter of law, BCBSC is entitled to judgment because the Appellant failed to file an appeal to her termination with BCBSC.

As this is a recommended ruling on the Motion, for completeness of the record, I will now address BCBSC’s arguments that it was entitled to terminate the Appellant for insubordination, misconduct and willful neglect of duty.

Section 6-202 of the Education Article, Annotated Code of Maryland, provides:

(a)(1) On the recommendation of the county superintendent, a county board may suspend or dismiss a teacher, principal, supervisor, assistant superintendent, or other professional assistant for:

(i) Immorality;

(ii) Misconduct in office, including knowingly failing to report suspected child abuse in violation of § 5-704 of the Family Law Article;

(iii) Insubordination;

(iv) Incompetency; or

(v) Willful neglect of duty.

Md. Code Ann., Educ. § 6-202(a)(1) (Supp. 2022). BCBSC relied on paragraphs (a)(1)(ii), (iii), and (v) as the basis for its decision.

BCBSC cited *Resetar v. State Board of Education*, 284 Md. 537 (1979) for the proposition that misconduct in office includes an act that is contrary to the express and implied rules of conduct for employees. Attendance and the policy for reporting absences was an express rule of conduct communicated to the Appellant. The Employee Handbook, which was given to the Appellant when she began her employment, explicitly provides that, if for any reason an employee is unable to report to work, she “must notify their supervisor before their regular starting time.” (BCSCS Ex. 1, attachment 4).

On September 26, 2022, Ms. Chambers sent an email to the Appellant reminding her of the policy for taking leave. Ms. Chambers informed the Appellant that the policy was also contained in the weekly newsletter and that any time a staff member is taking leave, she must complete a leave request form and notify an administrator prior to the beginning of the start of the school day (by phone, email or text). (BCBSC Ex. 1, attachment 2). On October 10, 2022, Ms. Chambers issued the Appellant a written reprimand for failing to report to work and failing to complete a leave request form or notifying her direct supervisor. Despite the fact that the rules regarding absences were explicitly communicated to the Appellant, she repeatedly violated the rules by not reporting to work and not notifying her direct supervisor. The Appellant’s failure to report to work and notify her direct supervisor was misconduct in office.

BCBSC argued that insubordination has been defined by MSBE as the “willful disregard of express or implied directions of an employee and a refusal to obey reasonable orders.”

Stewart v. Baltimore County Bd. of Educ., MSBE Op. No. 05-15 (2005).⁶ Ms. Chambers, the

⁶ The Opinion does not include the quoted language but incorporates the Proposed Order on the Board of Education’s Motion for Summary Affirmance, OAH Case No.: MSDE-BE-01-04-00511 (citing *Anastasi v. St. Mary’s County Bd. of Educ.*, 4 Op. MSBE 192 (1985) and *Pepperman v. Board of Educ. of Montgomery County*, 7 Op. MSBE 555 (1997)) p. 10.

principal of Leith Walk and the Appellant's direct supervisor, repeatedly told the Appellant to report to Leith Walk and meet with her in-person to discuss her assignment. On October 11, 2022, Ms. Chambers directed the Appellant to meet with her after she signed in at school on October 12, 2022. At 8:55 a.m. on October 12, 2022, Ms. Chambers sent an email to the Appellant after going to the Appellant's classroom and seeing that she was not present. She reminded the Appellant to come see her when she arrived for work. A minute later, the Appellant responded by email stating that she would not be present. She further stated, "Principal, I really wished you would have told me what the expectations was going forward but I understand." (BCBSC Ex. 1, attachment 5). Ms. Chambers' order to meet with her was reasonable. The Appellant's refusal to meet with Ms. Chambers because Ms. Chambers would not tell her before they met what she planned to do in terms of the Appellant's assignment does not render Ms. Chambers' order unreasonable.

As clear as Ms. Chambers' order was, she gave her an even clearer directive in the next email she sent to the Appellant on October 12, 2022:

I emailed you last night and told you to come in today and meet with me. I stated this same message in every email prior to this one. You requested clarification and I stated I would meet with you once you came in to discuss it further. Please plan to be here tomorrow:

- In person
- At Leith Walk (5915 Glennot Road)
- After you have signed in
- In my office (the main office)

(BCBSC Ex. 1, attachment 5). Ms. Chambers could not have been clearer in her directive and the order was reasonable. The Appellant refused to follow the order. During the Prehearing Conference, the Appellant stated that she does not go somewhere she is not welcomed.

The Appellant's feeling that she was not welcomed at Leith Walk does not change the fact that she was given a reasonable, direct order, and she refused to comply. The Appellant was insubordinate.

Finally, BCBSC argued that the Appellant's failure to report to work was a neglect of duty because she was unable to discharge any teaching duties because she never reported to work. The Appellant did not respond to the Motion but during the Prehearing Conference, she stated that BCBSC was "neglectful" of her, and that the Principal took away her position. (Prehearing Conference, p. 3). However, there is absolutely no evidence that Ms. Chambers "took away" the Appellant's teaching position. Instead, the evidence in support of the Motion is that the Appellant stopped reporting to work on October 3, 2022, and despite repeated requests from Ms. Chambers to the Appellant to report to work and meet with her, the Appellant never did so. Clearly, a teacher cannot fulfill any of her teaching responsibilities if she is not physically present to teach. Although the Appellant may have suspected that she was being replaced when another fourth-grade teacher was announced, the Appellant has never presented any evidence supporting that belief. In any event, the Appellant's unsupported beliefs were not sufficient to overcome the uncontested evidence of her insubordination, misconduct and neglect of duty.

CONCLUSION OF LAW

Based on the foregoing Findings of Fact and Discussion, I conclude as a matter of law that the Appellant waived any claims or defenses in this appeal by acquiescing to her termination by not appealing to the BCBSC, and that the Appellant was properly terminated for insubordination, misconduct in office and neglect of duties. Md. Code. Ann., Educ. §6-202 (Supp. 2022); COMAR 28.02.01.12D.

PROPOSED ORDER

I **ORDER** that the Local Board's Motion for Summary Decision is **GRANTED**;

I further **ORDER** that the Local Board's decision to terminate the Appellant on the basis of insubordination, misconduct in office and neglect of duties be **AFFIRMED**.

October 20, 2023
Date Ruling Mailed

ACK/ckc
#207886

Ann C. Kehinde

Ann C. Kehinde
Administrative Law Judge

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