

STATE OF RHODE ISLAND  
AND  
PROVIDENCE PLANTATIONS

COMMISSIONER OF  
EDUCATION

Paula Brunetti

vs.

Woonsocket School Committee

DECISION

April 24, 1992

HELD: The appellant's teaching service was interrupted by a leave of absence which destroyed the successive nature of her annual contracts with the Woonsocket School Committee. Thus, she is not a tenured teacher within that system.

#595

### Travel of the Case

On July 17, 1991 the appellant, through her counsel, filed a notice of appeal with former Commissioner J. Troy Earhart. The Commissioner designated the undersigned as hearing officer in this matter, which was heard on September 13 and October 16, 1991. The record closed upon receipt of the transcript on November 8, 1991.

Jurisdiction to hear the appeal lies under R.I.G.L. 16-39-2.

### Findings of Relevant Facts

- Paula Brunetti is a certified elementary school teacher, presently employed by the Woonsocket School Committee at the Fifth Avenue School (Tr. p.6, 16).
- Ms. Brunetti's employment history in the Woonsocket school system is as follows:<sup>1</sup>
  - School year 1984-85 - employed from February 20, 1985 to the end of the year to teach grade 4 at Citizens Memorial School.
  - School year 1985-86 - employed from the first day of school to January 24, 1986 to teach grade 1 at the Bernon Heights School.
  - School year 1986-87 - employed under a one-year contract to teach grade 6 at the Bernon Heights School. Taught the entire year.
  - School year 1987-88 - employed under a one-year contract to teach grade 6 at the Social Street School. The appellant left in February of 1988 on an approved medical leave of absence after working 81 days.

<sup>1</sup> The parties stipulated to most of the relevant facts surrounding this dispute. See Transcript Vol.I. page 11.

School year 1988-89 - the appellant remained out of work on an approved medical leave, but one which was not formalized by a writing or vote of the School Committee.

School year 1989-90 - employed under a one-year contract as a half-time teacher, assigned to teach grade 1 at the Bernon Heights School.

School year 1990-91 - employed under a one-year contract to teach grade 4 at the Globe Park School.

School year 1991-92 - currently employed under an annual contract to teach pre-1 at the Fifth Avenue School.

- Prior to her reappointment to teach this current year at the Fifth Avenue School, Ms. Brunetti had received a "lay-off" notice indicating her contract would not be renewed for school year 1991-1992. (S.C. Ex.1 and 2)
- The appellant was sent the above-described layoff notice in February of 1991, along with several non-tenured teachers in the Woonsocket school system. (Tr. Vol.I. p.27)
- Upon her reappointment in July of 1991, the appellant understood that she would be sent another annual contract for her signature, as she has for the past several years of her employment (Tr. Vol.I. p.6)

#### Position of the Parties

As set forth by the appellant's attorney, the issue in this

case is:

whether the medical leave in "87-88...  
or the medical leave in 88-89, both  
being duly authorized, interrupt the  
annual years' requirement for tenure.  
(Tr. Vol.II p.22)

If the appellant's leaves of absence from her teaching duties in the Woonsocket school system do not interrupt her service for tenure purposes, then, her counsel argues, she completed three years of teaching under annual contracts at the close of the 1989-90 school year. She argues that upon completion of this service, she became a tenured teacher in Woonsocket. Her employment relationship thereby converted from one based on an annual contract to continuing service. She takes the position that the Woonsocket School Committee's "notice of nonrenewal", sent to her in February of 1991, and the Committee's subsequent reappointment of her on an annual contract basis for school year 1991-92 were improper because in essence the School Committee is refusing to treat the appellant as a tenured teacher within its system.

The School Committee's position is that the language of our tenure statute is such that three full and consecutive years of teaching service, under annual contract, are required before a teacher achieves tenured status. Therefore, the School Committee points to the appellant's failure to work the full school year in 1987-88, and to the gap in successive annual contracts resulting from her leave of absence in school year 1988-89 as evidence of her failure to meet the statutory requirements for tenure.

Decision

The statute on which the appellant's tenure claim is based is R.I.G.L. 16-13-3 which says:

(a) Three (3) successive annual contracts shall be considered evidence of satisfactory teaching and shall constitute a probationary period. Teachers who have given satisfactory service for three (3) years prior to April 24, 1946, and thereafter those who shall complete the probationary period, shall be considered in continuing service. No such teacher shall be dismissed except for good and just cause.

In 1976, the Commissioner in the case of Dunn v. Middletown School Committee ruled that:<sup>2</sup>

a teacher does not become tenured until three full years of service under three successive annual contracts have been completed and the teacher has not been notified in writing on or before March 1 of the third year that the contract will not be renewed for the ensuing year. (Dunn v. Middletown at page 5)

To uphold the appellant's claim that she became a tenured teacher at the completion of school year 1989-90, we must find that in June of 1990, Ms. Brunetti had completed three full years of service under three successive annual contracts. The record does not support this finding. While she was employed as a teacher under an annual contract for school years 1986-87 and 1987-88, Ms. Brunetti worked only 81 school days in 1987-88, before going on an approved medical leave of absence for the remainder of the school year. Her absence during school year 1987-88, although approved, was lengthy enough to substantially

impair the continuity of her teaching service in the City of Woonsocket. Even apart from the issue of whether this approved leave of absence interrupted the successive nature of the appellant's employment, it certainly must result in the loss of any credit toward tenure for school year 1987-88. Thus, at the close of school year 1989-90 (Ms. Brunetti did not work at all during school year 1988-89) the appellant had not completed three full years of employment under annual contracts with the Woonsocket School Committee.

Another impediment to the appellant's achieving tenured status at the close of the 1989-90 school year, or even the following year, is that it is our judgement that the four-month leave of absence in 1987-88 interrupted the continuity of the appellant's service under successive annual contracts.<sup>3</sup> We interpret our statute to require not only that the employment of a probationary teacher be for three full years under annual contract but that the three years be successive. The simple reason for this is that the statute uses the word "successive". A basic rule of statutory construction is that words of a statute which are unambiguous must be given their plain and ordinary meaning.

This construction requires the probationary term to be an uninterrupted period of sufficient duration to determine a

<sup>3</sup> The only case on point we are aware of in a jurisdiction such as ours which requires consecutive annual employment is the case of Solomon v. School Committee of Boston, 478 N.E. 2d 137 (Mass. 1985). In Solomon the court found that a two-month maternity leave was sanctioned by a statute (Gen Laws C.149 sec. 105 D) which specifically required that such leaves not affect employment "advantages" such as tenure. The appellant's long-term medical leave here enjoys no similar statutory protection.

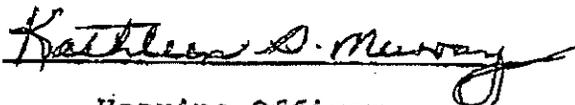
teacher's sustained ability and performance, his or her commitment to the teaching profession and to the particular school system. This demonstration of ability, satisfactory performance, and commitment by a probationary teacher is a substantial undertaking; however, successful completion of the probationary period entitles the teacher to what could possibly be a lifetime commitment from the school system. Tenure brings with it substantial job-protection rights that should not be accorded without the school district's opportunity to view a teacher's performance on a sustained basis.

Since we are certain that the requirement that the three year's of teaching be full years still allows for brief absences of a de minimis nature for such reasons as illness, death in the family etc., we do not believe that our interpretation brings us to an absurd result. Counsel for the appellant raised the specter of an endless succession of probationary periods resulting from a one or two day absence of a probationary teacher and the failure of the teacher to work a "full" year, i.e. every single day of the school year. We do not believe that such routine, short-term absences require the resetting of the tenure clock. The absence of the appellant was for almost a full semester of the 1987-88 school year.

Even assuming, arguendo, that the leave of absence in school year 1987-88 did not destroy the successive nature of Ms. Brunetti's service, the leave of absence for the entire subsequent school year, 1988-89, certainly had this effect. From a technical standpoint, the appellant was not even issued an annual contract

for this school year, although the facts do show she did receive medical benefits from her employer during this period of time. Nonetheless, we find that total absence from teaching in 1988-89 prevented the following year's annual contract from being "successive" to any prior teaching service in the Woonsocket school system. Again, we think our application of the facts to the law consistent with the intent of the statute, and the concept of a probationary period of sustained teaching service. We need not reach the issue today of whether the appellant's part-time teaching for a full year under annual contract in 1989-90 qualifies for tenure credit. Having found that the appellant's absences in the two prior years destroy the continuity of her service for tenure purposes, we rule that the appellant has failed to demonstrate her entitlement to tenure in the Woonsocket school system.

For the above reasons, her appeal is denied and dismissed.

  
Kathleen D. Murray  
Hearing Officer

  
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Commissioner of  
Elementary and Secondary Education

Date: April 29, 1992