

STATE OF RHODE ISLAND

COMMISSIONER OF EDUCATION

AND

PROVIDENCE PLANTATIONS

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LISA BEAUDOIN \*

VS. \*

LINCOLN SCHOOL COMMITTEE \*

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DECISION

Held: School Committee can appoint a long term substitute to fill the position of a teacher on leave. Unexpected resignation of the teacher on leave does not create a vacancy which must be immediately filled by a regular teacher.

Date: October 3, 1996

The petitioner in this case, Lisa Beaudoin, was hired to serve as a long term substitute teacher in the public schools of Lincoln. Her term of service was the 1994-1995 school year. She was paid at the rate of a first step regular teacher except that she received no medical or legal insurance and she was entitled to fewer sick days. Petitioner Beaudoin was serving as a substitute for a teacher named Joan Reid. Joan Reid was on a paid sabbatical leave for 1994-1995 school year. The terms of this paid leave required Reid to return to teach in the Lincoln public schools at the conclusion of her sabbatical for a least two more years. In spite of this service requirement Ms. Reid submitted a letter of resignation dated February 3, 1995 to the School Committee. This resignation purported to be effective on February 2, 1995. The School Committee declined to accept this resignation until March 13, 1995 so that it would not waive its right to recover the sums which had been paid to Ms. Reid during her sabbatical leave.

On February 8, 1995 petitioner Beaudoin received a letter from the Superintendent of the Lincoln public schools indicating that the Superintendent was recommending that petitioner Beaudoin's employment be terminated at the end of the 1994-1995 school year. On February 13, 1995 the School Committee accepted this recommendation and petitioner Beaudoin was informed that this dismissal was based on the fact that she was hired only as a long term substitute and that it was "... anticipated that a regular teacher may

elect to fill the position". Petitioner Beaudoin had received good evaluations as a substitute teacher. She is now employed as a teacher in the public schools of Attleboro, Massachusetts.

Petitioner Beaudoin argues that under the facts of this case the School Committee was obligated upon the resignation of Ms. Reid, to immediately appoint a "regular teacher" to fill the position at issue. When the School Committee failed to take this step petitioner Beaudoin argues that she became entitled to the position as a "regular teacher". She argues that she should have received, from the date of Mrs. Reid's resignation, the benefit "package" of a "regular" teacher. She also argues that she had a claim to the position for the 1995-1996 school year. The petitioner argues that if the School Committee did not wish to give her the position the Committee should have given the position to a "regular" teacher while at the same time honoring the petitioner's long term substitute contract by keeping the petitioner on full contractual salary as a "spare teacher" to be used on an "as needed" basis. The petitioner argues that the case of Franco and Horne vs. West Warwick School Committee, Commissioner of Education, August 25, 1995 is dispositive of this case. We do not, however, believe that the case of Franco and Horne vs. West Warwick School Committee is relevant to the present issue. In the Franco and Horne case the Commissioner was dealing with a situation where two teachers had been hired as long term substitutes

when the School Committee knew that the regular teachers who had held the positions were in fact, not returning to the positions. Under these circumstances, the vacancies never should have been filled with substitute teachers. Regular teachers should have been appointed from the beginning to fill them. To hold otherwise would be to countenance a subversion of the teacher tenure law. In the present case, however, the School Committee had every reason to believe that Ms. Reid would return from her sabbatical at the time when it hired petitioner Beaudoin as a long term substitute teacher. Indeed the School Committee had a one year contract with Ms. Beaudoin the terms of which the School Committee would not be free to disregard. When Ms. Reid resignation was accepted on March 13, 1995 this did not create a genuine vacancy which the School Committee was immediately required to fill with a regular teacher on an annual contract. As was stated in Giron vs. East Providence School Committee, Commissioner of Education, November 14, 1979:

It is our opinion that a person employed to take place of a teacher who is on a leave of absence has no basis to claim continued employment beyond the limited period for which he or she was employed. In the instant situation, the appellant was hired for a limited period of time to take the place of a teacher who was on a leave of absence. Therefore, it is our opinion that, notwithstanding the fact that the teacher who was on a leave of absence subsequently resigned her position, the School Committee was not obligated to renew the appellant's contract for the 1979-80 school year.

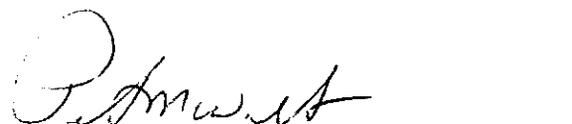
Such cases as Horne and Franco are not really germane to the present case. The case of Horne and Franco dealt with a situation when a School Committee hired substitute teachers to fill positions which the School Committee knew or should have known were vacant at the time when it hired the substitutes. In the present case, however, at the time when the School Committee hired the petitioner, it had every reason to believe that the regular occupant of the position would be returning to the position. No genuine vacancy was created simply because Ms. Reid unexpectedly resigned. Carbone vs. Exeter-West Greenwich Regional School District, Commissioner of Education, March 9, 1979.

Conclusion

The petitioner appeal must be denied and dismissed.

  
Forrest L. Avila  
Hearing Officer

Approved:

  
Peter McWalters  
Commissioner

Date: October 3, 1996