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THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:)	
)	
DONALD FRAZIER,)	OEA Matter No. 1601-0161-12
Employee)	
)	Date of Issuance: January 5, 2016
)	
D.C. PUBLIC SCHOOLS,)	
Agency)	
)	

OPINION AND ORDER
ON
PETITION FOR REVIEW

Donald Frazier (“Employee”) worked as a Teacher with the D.C. Public Schools (“Agency”). On June 14, 2012, Agency issued a notice to Employee informing him that he would be terminated from his position for failure to comply with the licensure requirements for teaching in the District of Columbia. The effective date of Employee’s termination was July 14, 2012.¹

Employee challenged the termination by filing a Petition for Appeal with the Office of Employee Appeals (“OEA”) on July 23, 2012. He argued that he should not have been separated because he received conflicting information regarding his teaching license. Therefore, he requested that OEA allow him to continue to work.²

¹ *Petition for Appeal*, p. 5 (July 23, 2012).

² *Id.* at 2.

Agency provided that during the 2011-2012 school year, Employee was informed that his employment was contingent upon him completing and maintaining a license to teach in the District of Columbia. It advised Employee that he needed to submit documentation establishing that he was in compliance with the licensing requirements by June 1, 2012. Employee failed to submit the required documentation. Therefore, Agency believed that its action was proper.³

The matter was assigned to an OEA Administrative Judge (“AJ”), who issued an order requiring the parties to submit briefs on whether Agency’s action was in accordance with laws, rules, and regulations.⁴ Employee’s brief provided that during the interview process, Agency informed him that he could only be hired if he met all of the qualifications for a D.C. teaching license. He explained that because he was subsequently hired, he believed that he was qualified for his position.⁵ Additionally, Employee claimed that he was not compensated for his summer pay credit.⁶

In Agency’s brief, it reiterated that Employee failed to obtain a license to teach.⁷ Employee argued that he did not obtain a license because Agency provided misleading information and false statements during the hiring process.⁸ Therefore, he requested that he be reinstated to his position; that he have all of the options available to excess teachers with Licensure I; and that he receive back pay and benefits.⁹

The AJ issued her Initial Decision on March 31, 2014. She found that Employee failed to

³ *District of Columbia Public Schools’ Answer to the Petition for Appeal* (August 27, 2012).

⁴ *Order to Submit Briefs* (December 2, 2013).

⁵ Employee provided that in addition to having a Master’s degree in Education with fourteen years of teaching experience, he passed all of the necessary exams and received his Administrative Service Credential. *Employee’s Brief*, p. 2-3 (January 3, 2014).

⁶ *Id.* at 6.

⁷ *District of Columbia Public Schools’ Brief* (February 7, 2014).

⁸ Employee asserted that he met all of the requirements for inter-state license reciprocity. He provided that after he followed Agency’s instructions to obtain the license, the Licensing and Accreditation department told him that he did not need to do anything else.

⁹ *Employee, Donald Frazier, Reply Brief to Agency’s Brief* (February 14, 2014).

obtain the necessary teaching credentials in Health and Physical Education.¹⁰ Consequently, the AJ held that Employee failed to meet the performance standards for his position and did not comply with Chapter 5, § 1601 of the D.C. Municipal Regulations (“DCMR”). She also ruled that OEA lacked jurisdiction to consider Employee’s argument regarding payment after he was terminated. Accordingly, Agency’s action was upheld.¹¹

Employee subsequently filed a Petition for Review with the OEA Board on May 5, 2014. He argues, *inter alia*, that the Initial Decision did not address all issues of law and fact raised in the Petition for Appeal and that new and material evidence is available. Employee asserts that Agency provided him misinformation regarding the licensure requirements. He submitted a contract that he signed in 2009 and explains that he followed the licensure instructions given to him by D.C. Public Schools. As a result, Employee requests that the Board reverse the Initial Decision and reinstate him with back pay and benefits.¹²

DCMR Chapter 5, Section § 1601 provides that “an individual must have a license known as a Teaching Credential to serve as a teacher in the District of Columbia Public Schools for the subjects enumerated in this chapter” The language clearly provides that a license is required to teach within D.C. Public Schools. Although Employee makes several arguments on Petition for Review, he does not provide any proof that he possessed a license to teach for the 2011-2012 school year. Employee seems to suggest that he should not have been hired at all without the proper license. Although this may be accurate, it does not rise to the level of proof that he secured the requisite license to teach.

Employee was provided ample notice by Agency in October of 2011 that he would need

¹⁰ The AJ found that Employee’s application for the Health and Physical Education license was denied because he failed to provide proof that he met all of the required prerequisites to obtain the license. The AJ found no credible evidence to support Employee’s argument that he did not need to complete the licensure program.

¹¹ *Initial Decision*, p. 4-6 (March 31, 2014).

¹² *Petition for Review* (May 5, 2014).

to hold a valid license by June 1, 2012. Employee's failure to obtain the license is adequate cause to remove him from his position in accordance with DCMR Chapter 5, Section § 1601. Employee was specifically informed by Agency that he lacked the "completion of a state-approved educator licensure program in teaching Health & Physical Education."¹³ As previously stated, the deadline to offer proof of this requirement was June 1, 2012. Employee offered proof that he was enrolled in a licensure program on June 13, 2012.¹⁴ Furthermore, it was not until June 15, 2012, that he offered proof of completion of a "Health and Physical" course.¹⁵ This was past the June 1, 2012 deadline. As a result, the Administrative Judge's decision was based on substantial evidence.¹⁶ Therefore, this Board will uphold Agency's removal action. Accordingly, Employee's Petition for Review is denied.

¹³ *Petition for Appeal*, p. 8 (June 23, 2012).

¹⁴ *Id.* at 18.

¹⁵ *Id.* at 16.

¹⁶ The Court in *Baumgartner v. Police and Firemen's Retirement and Relief Board*, 527 A.2d 313 (D.C. 1987), found that if administrative findings are supported by substantial evidence, then it must be accepted even if there is substantial evidence in the record to support a contrary finding. Substantial evidence is defined as evidence that a reasonable mind could accept as adequate to support a conclusion. See *Mills v. District of Columbia Department of Employment Services*, 838 A.2d 325 (D.C. 2003) and *Black v. District of Columbia Department of Employment Services*, 801 A.2d 983 (D.C. 2002).

ORDER

Accordingly, it is hereby **ORDERED** that Employee's Petition for Review is **DENIED**.

FOR THE BOARD:

Sheree L. Price, Vice Chair

Vera M. Abbott

A. Gilbert Douglass

Patricia Hobson Wilson

The Initial Decision in this matter shall become a final decision of the Office of Employee Appeals 5 days after the issuance date of this order. An appeal from a final decision of the Office of Employee Appeals may be taken to the Superior Court of the District of Columbia within 30 days after formal notice of the decision or order sought to be reviewed.