

JANITORS

(See "Abolition of position" and "Tenure", this index)

Access to personnel file (89:2902, Grande)

Accident resulting in janitor's inability to resume permanent employment resulted in his eligibility to receive full year's salary minus workers compensation (83: March 15, Theodore)

Appointment of janitor on pension (39-49:3)

Board had authority to place janitor, who remained unable to perform full duties after exhausting all paid leaves, on unpaid leave of absence (82: June 24, Still, aff'd St. Bd. 82: December 1)

Board is not prevented from terminating non-tenured janitor who remains unable to work following extended leave for work-related injury and who has unused sick leave available (86:622, Hardgrove, aff'd St. Bd. 86:633, aff'd App. Div. unreported opinion (Docket No. A-25-86T8, decided March 25, 1987)

Bomb searches: board may not order untrained janitors to perform (84:1437, Cherry Hill)

Compensation

For after school activities and duties must be at same rate paid for regular school duties (71:30)

Compensation, generally (80: August 27, Marian)

Contract

Dismissal of Head Custodian ordered when he failed to return after approved sick leave and failed to maintain New Jersey Fireman's license (88: September 1, Clemens)

Dismissal of non-tenured janitor; absent a contract termination clause, board must pay compensation for remainder of term (68:210 aff'd St. Bd. 68:213) (79:169, Kyler)

(Note: although petitioner did not have tenure, board lacks authority to conduct hearings for non-tenured employees, in the absence of a termination clause in the contract.

Dismissal ordered for failure to respond to tenure charges (88: September 23, Logan)

Dismissal ordered where tenured cleaner - light, part-time refused to respond to tenure charges (88: August 31, Donohue)

Sixty day termination clause was complied with where board gave non-tenured janitor prior notice of action to terminate although contract provided 60 days salary (82: August 25, Davis)

"Janitor" refers to a class of employees including the job of maintenance specialist (84:1290, Lauffer)

Overtime - janitor not entitled to a particular share of (81: November 6, Wancea)

Probationary period in collective bargaining agreement held ultra vires as inconsistent with fixed term provision in tenure law (74:1349)

Reinstatement ordered where disability retirement denied (68:250)

JANITORS - continued

Suspension and reassignment of maintenance supervisor; board ordered to compensate supervisor for period of suspension; reassignment upheld (79:401, Worrell)

Tenure; designation as "permanent employee" under terms of collective agreement was not intended to confer tenure on janitor who was appointed to fixed term (86:1176, Gonzalez, settled after remand 86: July 28)

Tenure; entitlement of board policy to grant tenure after three years of satisfactory performance (83: August 15, Smith, aff'd St. Bd. 84: April 4) (84:1100, Speer, aff'd St. Bd. 85:2022)

Tenure; janitor appointed on yearly basis for fixed terms will acquire tenure after 3 successive appointments as provided in collective bargaining agreement Wright v. Bd. of Ed. of City of East Orange, 99 N.J. 112 (1985) aff'g 194 N.J. Super. 181, rev'g St. Bd. 83 S.L.D. 1677, aff'd 82 S.L.D. 836, rev'g 82 S.L.D. 823

Tenure; no entitlement as janitorial supervisor (89:2070, Schipmann)

Tenure; no tenure entitlement if janitor appointed to a fixed term per N.J.S.A. 18A:17-3 (81: August 26, Williamson) (82: April 12, Peck) (82: September 30, Willingham) (83: July 22, Lang)

Tenure; petition asserting tenure must be filed within 90 days of alleged wrongful termination (85: December 5, Rizzo)

Tenure dismissal; excessive absence without reasonable explanation (89: March 13, Donahue) (89:1219, Houlroyd)

Where board had no "light duty" janitor position it properly placed janitor who could not perform full duties on medical leave of absence (82: June 24, Still, aff'd St. Bd. 82: December 1)

JOINTURE COMMISSION

Creation of de facto jointure commission; tenure rights of employees (81: May 26, Chinnis, aff'd St. Bd. 81: September 2)

Creation of "de facto" jointure commission without following mandates of N.J.S.A. 18A:46-25 et seq. (78:187, Bisson)

De Facto jointure commission did not exist (86:2000, Prior)

JUDICIAL REVIEW

Appellate Brief of 130 pages (2 sides of 65 sheets) violated 65 page rule. Matter of Tenure Hearing of Cowan, 224 N.J. Super.

737 (App. Div. 1988)
Appellate Division review of agency decision is limited. Court must survey record to determine whether sufficient credible evidence exists to support agency's conclusion. Clowes v. Terminex International, 109 N.J. 575 (1988)

JUDICIAL REVIEW - continued

Exhaustion of administrative remedies requirement

Generally, Belen v. Woodbridge Twp. Bd. of Ed., 142

N.J. Super. 486 (App. Div. 1976); Fisher v. Union Twp. Bd. of Ed., 99 N.J. Super. 18 (App. Div. 1968); Schults v. Teaneck Bd. of Ed., 86 N.J. Super. 29 (App. Div. 1964) aff'd o.b. 45 N.J. 2 (1965); Ridgeway v. Upper Freehold Twp. Bd. of Ed., 88 N.J.L. 530 (Sup. Ct. 1916)

Not applicable in condemnation proceedings. Asbury Park Bd. of Ed. v. Murnick, 224 N.J. Super. 504 (App. Div. 1988).

Not applicable where issues are solely of law, Silverman v. Millburn Twp. Bd. of Ed., 134 N.J. Super. 253 (Law Div. 1975) aff'd o.b. 136 N.J. Super. 435 (App. Div. 1975)

Standard of review, in appeals from determinations of local board, Commissioner and State Board, Thomas v. Morris Twp. Bd. of Ed., 89 N.J. Super. 327 (App. Div. 1965) aff'd o.b. 46 N.J. 581 (1966); Quinlan v. North Bergen Twp. Bd. of Ed., 73 N.J. Super. 40 (App. Div. 1962); Schinck v. Westwood Bd. of Ed., 60 N.J. Super. 448 (App. Div. 1960); Kopera v. West Orange Bd. of Ed., 60 N.J. Super. 288 (App. Div. 1960)

Presumption of validity usually accorded Commissioner's decision does not apply where issue is one of law or statutory interpretation, Biancardi v. Waldwick Bd. of Ed., 139 N.J. Super. 175 (App. Div. 1976) (C. dec. 74:360, St. Bd. 74:368)