

IN THE SUPREME COURT OF THE STATE OF DELAWARE

TANISHA WILSON,	§	
	§	No. 277, 2010
Appellant Below-	§	
Appellant,	§	Court Below: Superior Court
	§	of the State of Delaware in and
v.	§	for New Castle County
	§	
BOARD OF EDUCATION OF	§	C.A. No. 09A-10-010
THE BRANDYWINE SCHOOL	§	
DISTRICT and BRANDYWINE	§	
SCHOOL DISTRICT,	§	
	§	
Appellees Below-	§	
Appellees.	§	

Submitted: August 27, 2010  
Decided: September 13, 2010

Before **HOLLAND**, **BERGER**, and **RIDGELY**, Justices.

***ORDER***

This 13<sup>th</sup> day of September 2010, it appears to the Court that:

(1) Appellant Tanisha Wilson appeals the Superior Court’s judgment affirming the decision of the Brandywine School District Board of Education (the “Board”) to terminate Wilson’s employment as a teacher on the grounds of neglect of duty and willful and persistent insubordination. Wilson raises two arguments on appeal. First, Wilson contends that the Board’s decision was not supported by substantial evidence. Second, Wilson contends that the Board erred as a matter of law in accepting the hearing officer’s recommendation to terminate Wilson’s

employment when the hearing officer did not articulate a legal standard for neglect of duty. We find no merit to Wilson's arguments and affirm.

(2) The Brandywine School District employed Wilson from 2003 to 2009 as a tenured elementary school teacher at Forwood Elementary School ("Forwood"). Because Wilson performed poorly in the areas of organization, management, and teacher-student interaction, Wilson was placed on a formal improvement plan in 2006.

(3) On January 13, 2009, Enid Holly VanSuch ("VanSuch"), the principal of Forwood, began a formal evaluation of Wilson. After VanSuch evaluated Wilson, she recommended that another improvement plan be implemented to address Wilson's performance. VanSuch completed a Formative Feedback Form containing the results of her evaluation. VanSuch repeatedly asked Wilson to sign and return the form, as required by the Delaware Performance Appraisal System ("DPAS II"). After initially failing to respond to VanSuch's requests, Wilson finally confronted VanSuch at her office. Wilson shouted at VanSuch and indicated that she would not cooperate with her.

(4) VanSuch and Wilson ultimately developed a new individual improvement plan, which contained various goals and deadlines. Wilson failed to meet the deadlines on at least eight occasions, failed to complete tasks required by the plan, and disregarded at least one meeting. After observing Wilson in the

classroom, VanSuch completed another Formative Feedback Form. Although DPAS II required Wilson to sign and return the form within five days, Wilson did not return it for almost one month, even after VanSuch repeatedly requested it.

(5) By letter dated April 23, 2009, VanSuch informed Wilson that she would recommend to the Board that Wilson's employment be terminated based on Wilson's neglect of duty arising from her failure to sign and return the Formative Feedback Form and Wilson's willful and persistent insubordination due to her noncompliance with deadlines and documentation requests required by the improvement plan.

(6) On May 11, 2009, the Board approved VanSuch's recommendation to terminate Wilson's employment. At Wilson's request, an evidentiary hearing was held before an impartial hearing officer. The hearing officer found that the termination for neglect of duty and willful and persistent insubordination was justified. The hearing officer also found that Wilson's failure to comply with the improvement plan constituted neglect of duty and that Wilson's actions toward VanSuch constituted willful and persistent insubordination. The hearing officer also found that Wilson's refusal to sign and return the Formative Feedback Form was evidence of either neglect of duty or willful and persistent insubordination. The Board accepted the hearing officer's report and recommendation to terminate Wilson's employment. Wilson appealed her termination to the Superior Court.

The Superior Court concluded that the Board's decision was supported by substantial evidence and affirmed. This appeal followed.

(7) When reviewing a decision of the Board, 14 Del. C. § 1414 provides that “[t]he Court shall decide all relevant questions of law and all other matters involved, and shall sustain any board action, findings and conclusions supported by substantial evidence.” This Court has defined substantial evidence as “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.”<sup>1</sup> This Court has explained that Board findings should be set aside only if “the record clearly contains no substantial evidence supporting findings of the Board.”<sup>2</sup> We review errors of law *de novo*.<sup>3</sup>

(8) Wilson contends that the Board's decision was not supported by substantial evidence. The record supports the Board's decision. Specifically, there was substantial evidence in the record showing that Wilson failed to sign and return the Formative Feedback Forms in a timely manner, Wilson failed to actively participate in her improvement plan, and Wilson failed to comply with the requirements of her improvement plan. Wilson has failed to show that “the record clearly contains no substantial evidence” supporting the Board's finding.<sup>4</sup>

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<sup>1</sup> *Person-Gaines v. Pepco Holdings, Inc.*, 981 A.2d 1159, 1161 (Del. 2009) (quoting *Olney v. Cooch*, 425 A.2d 610, 614 (Del. 1981)); *Bd. of Educ., Laurel Special Sch. Dist. v. Shockley*, 155 A.2d 323, 327 (Del. 1959).

<sup>2</sup> *Shockley*, 155 A.2d at 327.

<sup>3</sup> *Chubb v. State*, 961 A.2d 530, 535 (Del. 2008).

<sup>4</sup> *See Shockley*, 155 A.2d at 327.

(9) Wilson also contends that the Board erred as a matter of law in accepting the hearing officer’s recommendation to terminate Wilson when the hearing officer did not articulate a legal standard for neglect of duty. Although it is preferable for the legal standard to be stated, “it is enough if the record . . . includes a ‘fair statement of the conclusions of the Board,’ as well as ‘the facts material to show the grounds for those conclusions.’”<sup>5</sup> This Court has defined neglect of duty to mean “the failure to do something that is required to be done in connection with a person’s employment.”<sup>6</sup>

(10) Here, the hearing officer’s report adopted by the Board contains a fair statement of the facts material to show the grounds for concluding that Wilson’s conduct amounted to neglect of duty and insubordination.<sup>7</sup> We find that the Board’s findings and conclusions are supported by substantial evidence and free of legal error. Accordingly, the judgment of the Superior Court upholding the decision of the Board must be affirmed.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is **AFFIRMED**.

BY THE COURT:  
/s/ Henry duPont Ridgely  
Justice

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<sup>5</sup> *Conway & Conway v. Zoning Bd. of Adjustment*, 1998 WL 283393, \*2 (Del. Super. Ct. Feb. 20, 1998) (quoting *Searles v. Darling*, 83 A.2d 96, 98 (Del. 1951)).

<sup>6</sup> *Mack v. Kent County Vocational Tech. Sch. Dist.*, 1987 WL 11466, \*1 (Del. May 20, 1987).

<sup>7</sup> *See id.*