

## ORDER

AND NOW, to wit, this 31st day of December, 1973, the Appeal of Orville Harris from the decision of the Board of Education of the Philadelphia School District be and is hereby dismissed, and the action of the Board of Education dismissing him as a professional employe is hereby sustained on the ground of persistent and wilful violation of the School Laws.

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Appeal of Neal B. Weidman, a Professional Employee, from a decision of the Board of School Directors of the Schuylkill Haven School District, Schuylkill County, Pennsylvania

In the Office of the Secretary of Education, Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania

No. 220

## OPINION

John C. Pittenger  
*Secretary of Education*

Neal B. Weidman, Appellant herein, has appealed from the decision of the Board of School Directors of the Schuylkill Haven School District terminating his contract and dismissing him as a professional employe.

## FINDINGS OF FACT

1. Neal B. Weidman, Appellant, began his employment in the Schuylkill Haven School District as a substitute, high school English teacher in September, 1964.
2. The Appellant is a professional employe. He has worked as a high school English teacher in the District from his initial employment until his dismissal.
3. The Appellant was rated unsatisfactory for the 1970-71 school year by his principal, Mr. Carlton Tucker. The Appellant was rated unsatisfactory for the 1971-72 school year by Mr. William O. Frear, who succeeded Mr. Tucker as principal. Both unsatisfactory ratings were accompanied by detailed anecdotal records explaining the reasons for the ratings. Both ratings were approved by the District Superintendent, Dr. Eugene Surmacz.
4. On June 15, 1972, the Schuylkill Haven Board of School Directors voted to bring charges against the Appellant for the termination of his employment, and to give him the opportunity for a hearing on the charges if he requested one.
5. In a letter dated June 20, 1972, Dr. Surmacz notified the Appellant that his contract was terminated because of incompetency, persistent negligence, and immorality. The letter stated that the Appellant was being notified in accordance with Section 1121 of the School Code and that the Appellant would be given an opportunity to be heard if he presented a written request for a hearing within ten days after receipt of the letter.
6. The Schuylkill Haven Board of School Directors sent the Appellant a "Notice of Hearing," dated August 15, 1972, which stated that a hearing would be held on August 29, 1972" ... for the purpose of determining whether [the Appellant] should be dismissed as a professional employe\*\*\*." The Notice listed four general charges against the Appellant as reasons for his dismissal. These charges were incompetency, persistent negligence, persistent and wilful violation of the School Laws, and immorality. Each charge was followed by a list of reasons for the charge. The Notice was signed by the School Board's president and its secretary.
7. The scheduled hearing was continued until October 10, 1972. Testifying for the School District at the hearing were Dr. Surmacz, Mr. Tucker and Mr. Frear. The Appellant did not testify and did not present any evidence in his defense.
8. On October 17, 1972, the Schuylkill Haven Board of School Directors voted seven to nothing, by roll call vote, to discharge the Appellant. Notice of that decision was sent to the Appellant by letter dated October 18, 1972 from Dr. Surmacz.

9. On November 15, 1972, the Appellant filed his Appeal with the Secretary of Education. That appeal was later perfected with a petition filed November 20, 1972. The Appellant failed to serve the School District with a copy of his appeal.

10. A hearing before the Secretary of Education was scheduled for December 13, 1972. Because of problems in obtaining the transcript of the October 10, 1972 hearing and requests for continuances, the hearing was not held until May 9, 1973.

### DISCUSSION

The issue raised by the Appellant is that the Schuylkill Haven School Board failed to support, with competent and substantial evidence, the charges it brought against him. The record indicates the opposite. We conclude that the charges were supported with competent and substantial evidence. Accordingly, the Appellant's dismissal is sustained and his appeal is denied.

The immorality charge is based on statements the Appellant made to his Superintendent, Dr. Surmacz, at a meeting on June 9, 1971 to discuss the first unsatisfactory rating. The Appellant informed Dr. Surmacz that he had purchased and received weapons students in the district had stolen from a person related to a School Board member. [That Board member took no part in the proceedings involving the Appellant.] The Appellant volunteered this information because he was aware that the administration had heard stories of his activities involving drugs and the weapons. These activities, the Appellant claimed, related to his role as an undercover agent for a Federal agency, which he refused to identify. Dr. Surmacz requested that the Appellant cease his undercover work, contact the owner of the stolen weapons and resolve that matter, and supply the district with information from whatever law enforcement agency he was associated with, confirming his undercover role and explaining his involvement with the weapons and with drugs. Dr. Surmacz testified that the Appellant failed to comply with these last two requests; as to the first, Dr. Surmacz said he had no knowledge if there was compliance. Dr. Surmacz tried on his own, without success, to verify the Appellant's story. Mr. Tucker, the principal, testified that at an earlier date he had had a similar conversation with the Appellant.

We believe the Appellant's conduct, as related above, constitutes immorality. Immorality, as the term is used in the School Code, means such a course of conduct as offends the morals of the community and is a bad example to the youth whose ideals the teacher is supposed to foster and elevate, *Horosko v. Mount Pleasant Township School District*, 335 Pa. 369 (1939). Regardless of whether or not the Appellant actually received the stolen weapons, he said that he did. Having admitted that he engaged in what is normally considered to be immoral conduct – knowingly receiving stolen property, a criminal offense under the Crimes Code, 18 Pa. S. S329 -, the Appellant had the duty to show that his explanation was truthful. Aside from the unsupported explanation given to Dr. Surmacz, the Appellant made no attempt to show that he was in fact working for law enforcement agencies. At the hearing, the Appellant made no attempt to deny or challenge Dr. Surmacz's recollection of the incident. If Dr. Surmacz's testimony was inaccurate, the Appellant should have responded.

We conclude that it is improper and immoral conduct for a professional employee to admit to actions which, if not properly explained or justified, would show immorality. To put this conclusion in better perspective, assume that the Superintendent had heard rumors that the Appellant was involved in drugs or with receiving stolen weapons from students and, upon investigation, asked the Appellant whether the rumors were true. An admission by the Appellant that he was involved in such activities, without an adequate explanation of that conduct, is certainly cause for the Superintendent to be alarmed about the Appellant's moral fitness to teach. The fact that the Appellant raised this issue himself should not cause his admission to be seen any differently. Dr. Surmacz gave the Appellant sufficient time to provide corroborating evidence to show that his explanation was truthful and that his activities were justified. The Appellant failed to provide or to attempt to provide such evidence. Accordingly, we conclude his dismissal for immorality was proper.

The School Board presented other, more conventional causes for the Appellant's dismissal; namely, incompetency, persistent negligence, and persistent and wilful violation of the School Laws. The record shows that these causes are related; accordingly, they will be discussed together. On repeated occasions the Appellant failed to submit lesson plans as required by the District. Where he did submit them, they were sketchy and were inadequate for use by substitute teachers. This last point is important because the Appellant had the habit of using up all of his allowed sick leave days, personal days, and emergency days, which meant that substitutes were frequently needed. On at least one occasion, he did not even report to his school that he was absent.

The Appellant spent an excessive amount of time outside of the classroom while his class was in session. Frequently, he would be found in the faculty lounge.

As a rule, he failed to submit the required daily attendance reports. Many of the reports he did submit were inaccurate, with errors like reporting as present students who were absent, or reporting as absent students who were present. He failed to submit to the principal the required lesson summaries of what was planned for a particular week.

The Appellant took an excessive amount of time to grade papers and compositions. When he did return the students' work, weeks after it had been submitted, no explanation was given for the grade.

The Appellant failed to maintain his classroom in an orderly manner. He refused to attend events sponsored by the District. In particular, he was requested to attend an open house held in connection with the opening of a new high school. This, in and of itself, is cause for dismissal, *Johnson v. United School District*, 201 Pa. Super. 375 (1963).

The Appellant failed to take, or at least provide evidence he had taken, the tuberculosis test required by the District and also required by the School Code, Section 1418(c).

These problems were of a continuing nature. They were formally brought to the Appellant's attention with the unsatisfactory rating for the 1970-71 school year. Dr. Surmacz, at the June 9, 1971 meeting to discuss that rating, outlined seven conditions of performance for the next year which would hopefully lead to an improvement in the Appellant's work. The Appellant readily agreed to these conditions, including one that he obtain three additional teaching credits from a college within that next year. According to Dr. Surmacz, the Appellant failed to meet these conditions, with the exception of one about which Dr. Surmacz had no knowledge. The Appellant was rated unsatisfactory for a second time because his performance for the 1971-72 school year had not improved.

Since it is clear that the charges against the Appellant were supported by substantial evidence, there is no need to consider the significance of the Appellant's failure to supply the School District with a copy of his appeal, which is required in Section 1131 of the School Code.

Accordingly, we make the following

#### ORDER

AND NOW, this 31st day of December, 1974, it is ordered and decreed that the Appeal of Neal B. Weidman from the decision of the Board of School Directors of the Schuylkill Haven School District be and hereby is dismissed, and that the action of the Board of School Directors dismissing him as a professional employee on the grounds of incompetency, immorality, persistent negligence, and persistent and wilful violation of the School Laws be and hereby is sustained.

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Appeal of Mary Olive Katter, a Professional  
Employee, from a decision of the Board of  
School Directors of the Greater Johnstown  
School District, Cambria County,  
Pennsylvania

In the Office of the Secretary of Education,  
Commonwealth of Pennsylvania, at  
Harrisburg, Pennsylvania

No. 221