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parties in the case and its use in other cases is limited. R. 1:36-3.

SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
DOCKET NO. A-2599-15T3

IN THE MATTER OF THE TENURE  
HEARING OF SHELIA SLAPPY,  
STATE OPERATED SCHOOL DISTRICT  
OF THE CITY OF NEWARK,  
ESSEX COUNTY.

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Submitted October 25, 2017 – Decided December 20, 2017

Before Judges Alvarez and Currier.

On appeal from the Commissioner of Education,  
Docket No. 137-6/15.

Clifford G. Stewart, attorney for appellant  
Shelia Slappy.

Christopher S. Porrino, Attorney General,  
attorney for respondent New Jersey  
Commissioner of Education (Melissa Dutton  
Schaffer, Assistant Attorney General, of  
counsel; Kristen L. Settlemire, Deputy  
Attorney General, on the brief).

Purcell, Mulcahy & Flanagan, LLC, attorneys  
for respondent State-Operated School District  
of the City of Newark (Robert M. Tosti, on the  
brief).

PER CURIAM

In 2015, the School District of the City of Newark certified tenure charges before the Commissioner of Education (Commissioner) against Shelia Slappy, a teaching staff member. The District alleged her excessive absences in the 2011-2012 school year, including unauthorized months-long periods of time, adversely affected her students.

Although properly served, Slappy did not respond to the charges. Accordingly, the allegations against her were deemed admitted, see N.J.A.C. 6A:3-5.3(b)(1), and she was dismissed from employment on July 16, 2015.

Slappy's counsel filed papers that same day seeking an extension of time to file an answer pursuant to N.J.A.C. 6A:3-5.3(b)(1). The request was denied, and on July 29, 2015, Slappy filed an application to reopen.

Slappy contended her responsibilities for the care of a disabled husband and very young child constituted grounds to reopen the proceedings. The Commissioner, however, determined that her family obligations did not constitute "exceptional circumstances" as required by the statute. See N.J.S.A. 18A:6-17.4.

The Commissioner rendered a final decision on October 16, 2015, concluding Slappy was not entitled to reconsideration of her termination as she failed to meet any of the grounds entitling her

to such relief as enumerated in N.J.A.C. 6A:3-1.15(b)(2). We affirm.

It is well-established that our scope of review of an administrative agency decision is limited. In re Herrmann, 192 N.J. 19, 27 (2007). Administrative agency actions enjoy a "strong presumption of reasonableness." Aqua Beach Condo. Ass'n v. Dep't of Cmty. Affairs, 186 N.J. 5, 16 (2006).

We owe substantial deference to an agency's decision that follows the law, is supported by the record, and correctly implements legislative policies. Herrmann, 192 N.J. at 28; Greenwood v. State Police Training Ctr., 127 N.J. 500, 513 (1992). We only determine if the agency's findings could have been reasonably reached on the record and do not substitute our judgment for that of the agency. In re Taylor, 158 N.J. 644, 656 (1999); Greenwood, 127 N.J. at 515.

The decision to relax the rules regarding the filing of responses to administrative charges out of time is one within the Commissioner's discretion. See Kaprow v. Bd. of Educ., 255 N.J. Super. 76 (App. Div.), certif. granted, 130 N.J. 16 (1992), aff'd, 131 N.J. 572 (1993). An abuse of discretion occurs "when a decision is made without a rational explanation, inexplicably departed from established policies, or rested on an impermissible

basis." U.S. Bank Nat'l Ass'n v. Guillaume, 209 N.J. 449, 467-68 (2012).

Slappy claims, without elaboration, that the decision against her implicated the public interest, and that her personal situation justifies relaxation of the timeframe to reopen. We do not agree. The Commissioner's decision was not "arbitrary, capricious, or unreasonable." Herrmann, 192 N.J. at 27.

There is no question that Slappy had fifteen days, until July 6, 2015, to submit a written response to the charges. She did not submit a timely response. See N.J.S.A. 18A:6-16; see also N.J.A.C. 6A:3-5.3(a).

Applications to reopen are granted based on claims of mistake, newly discovered evidence, misconduct or misrepresentation by an adverse party, or reversal of a prior judgment on which a decision is based. See N.J.A.C. 6A:3-1.15(b)(2). None of these factors were present.

The Commissioner also properly concluded that no demonstrated emergency or other unforeseeable circumstance existed pursuant to N.J.A.C. 6A:3-5.3(b)(1). The Commissioner acknowledged Slappy's situation posed "ongoing challenging personal circumstances[.]" But it did not fall within any express exception.


In fact, Slappy does not even explain the reason she failed to file an answer prior to the expiration of the answer period,

other than her ongoing family responsibilities. Thus she proffers no basis upon which the matter could have been reopened or reconsidered.

Accordingly, we conclude the Commissioner's decision should be affirmed. His exercise of discretion was reasonable, not an abuse of discretion.

Affirmed.

I hereby certify that the foregoing  
is a true copy of the original on  
file in my office.

  
CLERK OF THE APPELLATE DIVISION