

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

BAY COUNTY SCHOOL BOARD,)	
)	
Petitioner,)	
)	
vs.)	Case No. 09-1256
)	
THOMAS WALKER,)	
)	
Respondent.)	
_____)	

RECOMMENDED ORDER

This cause came on for final hearing before Harry L. Hooper, Administrative Law Judge with the Division of Administrative Hearings, on May 7, 2009, in Panama City, Florida.

APPEARANCES

For Petitioner: Franklin R. Harrison, Esquire
Harrison, Sale, McCloy
Duncan & Jackson
Post Office Drawer 1579
Panama City, Florida 32402-1579

For Respondent: No appearance

STATEMENT OF THE ISSUE

The issue is whether Petitioner, Bay County School Board (School Board), had just cause under Subsection 1012.67, Florida Statutes (2008), to terminate the employment of Respondent, Thomas Walker, because of his absence without leave.

PRELIMINARY STATEMENT

On January 8, 2009, the superintendent suspended Respondent with pay until the School Board meeting held on January 14, 2009.

On January 14, 2009, the School Board, based upon the superintendent's recommendation, voted unanimously to suspend Respondent without pay and to proceed to terminate his employment.

On January 14, 2009, by certified return receipt mail, counsel for the School Board notified Respondent of the School Board's decision and Respondent's right to request an administrative hearing.

On January 21, 2009, Petitioner received a request for an administrative hearing from J. E. Sawyer, attorney for Respondent.

On March 6, 2009, Petitioner filed the Administrative Complaint with the Division of Administrative Hearings. The hearing was set for May 7, 2009, and heard as scheduled.

At the hearing, Petitioner presented the testimony of two witnesses and offered one exhibit into evidence.

After the hearing, Petitioner filed its Proposed Recommended Order on May 15, 2009.

References to statutes are to Florida Statutes (2008) unless otherwise noted.

FINDINGS OF FACT

1. Respondent is employed under a Professional Services Contract and teaches at Bozeman School in Bay County.

2. Respondent, without approval or notice to the administrator or staff of Bozeman School, failed to appear for his teaching assignment in the latter part of November 2008.

3. After repeated attempts to reach Respondent, Dr. Tommye Lou Richardson, Director of Human Resources for Bay District Schools, ascertained that Respondent was incarcerated in the Coffee County Jail in New Brockton, Alabama, for his failure to pay child support.

4. Respondent's absence was willful and without approved leave.

CONCLUSIONS OF LAW

5. The Division of Administrative Hearings has jurisdiction over the subject matter of and the parties to this proceeding. §§ 120.569 and 120.57(1), Fla. Stat.

6. The School Board has the burden of proving by a preponderance of the evidence that it had just cause to terminate the employment of Respondent.

7. Section 1012.67, Florida Statutes, reads as follows:

Absence without leave.--Any district school board employee who is willfully absent from duty without leave shall forfeit compensation for the time of such absence,

and his or her employment shall be subject to termination by the district school board.

RECOMMENDATION

Based upon the Findings of Fact and Conclusions of Law, it is

RECOMMENDED that the School Board enter a final order terminating the employment of Respondent and finding that he has forfeited any compensation since January 14, 2009, the date of his suspension without pay by the School Board.

DONE AND ENTERED this 18th day of May, 2009, in Tallahassee, Leon County, Florida.



HARRY L. HOOPER
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 18th day of May, 2009.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.