

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

JANET HERNANDEZ,

Petitioner,

vs.

Case No. 13-2885

MANATEE COUNTY SCHOOL BOARD,

Respondent.

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RECOMMENDED ORDER OF DISMISSAL

This matter came before Lynne A. Quimby-Pennock, an Administrative Law Judge of the Division of Administrative Hearings (Division), via the Notice of Authority in Support of Respondent's Position for Lack of Subject Matter Jurisdiction as Raised in the Joint Pre-Hearing Stipulation (Notice)^{1/} filed by the parties on September 26, 2013.

APPEARANCES

For Petitioner: Melissa C. Mihok, Esquire
Kelly and McKee, P.A.
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Post Office Box 75638
Tampa, Florida 33675-0638

For Respondent: Erin G. Jackson, Esquire
Thompson, Sizemore, Gonzalez
and Hearing, P.A.
Post Office Box 639
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STATEMENT OF THE ISSUES

The issues in this case involve the type of contract (an annual contract versus professional services contract) Petitioner had with Respondent, how that contract was terminated, and when that contract was terminated.

PRELIMINARY STATEMENT

On July 22, 2013, Petitioner filed a Request for Administrative Hearing "on the apparent decision of the School Board to terminate [Ms. Hernandez'] professional service contract for employment." Respondent, Manatee County School Board (School Board), granted Petitioner's request and forwarded the case to the Division for the assignment of an Administrative Law Judge.

The cause was set for hearing on October 2, 2013, and both parties were present. In light of the Joint Pre-Hearing Stipulation and the timing of the Notice's filing, argument regarding jurisdiction was heard at the beginning of the hearing. Following the parties' presentations, the undersigned advised the parties that the hearing was concluded and that a Recommended Order of Dismissal would be issued.

FINDINGS OF FACT

1. The Division has jurisdiction to make findings of fact to determine subject matter jurisdiction.

2. On September 26, 2013, the parties submitted a Joint Pre-Hearing Stipulation in this matter that detailed their respective positions.

3. In the Pre-Hearing Stipulation, Ms. Hernandez asserts that she was offered and accepted a professional service contract (PSC) to teach, effective at the beginning of the 1996/97 school year. She taught under the PSC for three years. At the beginning of the 1999/2000 school year, Ms. Hernandez became an assistant principal;^{2/} however, she resigned that position in October 2000. Ms. Hernandez returned to work as a teacher under an annual contract for the 2004/05 school year. After again working as an assistant principal for several years, Ms. Hernandez transferred to a teaching position before she requested and was approved to take a leave of absence for both the 2009/10 and 2010/11 school years. In March 2011, Ms. Hernandez notified the School Board of her intent to return to work for the 2011/12 school year. In April 2011, the School Board notified Ms. Hernandez that it was not renewing her employment contract.

4. Ms. Hernandez contends that she was working under a PSC and there was not just cause for her termination or non-renewal of her contract. The School Board's contention is that Ms. Hernandez was on an annual contract, and thus it could terminate or non-renew her contract in 2011.

CONCLUSIONS OF LAW

5. It is well-settled that contractual disputes are exclusively within the jurisdiction of Article V courts. Contractual disputes cannot be litigated in this forum or an administrative body. Worldwide Research Servs. Corp. v. Dep't of Fin. Servs., 2007 Fla. Div. Adm. Hear. LEXIS 664 (DOAH December 6, 2007) (dismissing cause for lack of jurisdiction where "Petitioner seeks to have a contract dispute . . . resolved in this forum. Be it an oral or written contract, the resolution of contract disputes is the exclusive jurisdiction of Article V courts"); Peck Plaza Condo. v. Div. of Fla. Land Sales and Condos., 371 So. 2d 152, 153-154 (Fla. 1st DCA 1979) (holding Division of Administrative Hearings lacked jurisdiction to adjudicate contract dispute; "Jurisdiction to interpret . . . contracts is, under our system, vested solely in the judiciary"); see also Fla. St. Univ. v. Hatton, 672 So. 2d 576, 579 (Fla.1st DCA 1996) (noting that the Division of Administrative Hearings is a quasi-judicial forum and not a court of competent jurisdiction).

6. For the reasons stated above, the Division of Administrative Hearings lacks subject matter jurisdiction to resolve what is plainly a contract dispute between these parties.

RECOMMENDATION

It is RECOMMENDED that Petitioner's request for an administrative hearing be dismissed for lack of jurisdiction.

DONE AND ENTERED this 9th day of October, 2013, in Tallahassee, Leon County, Florida.



LYNNE A. QUIMBY-PENNOCK
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 9th day of October, 2013.

ENDNOTES

- ^{1/} The Notice was filed at 3:58 p.m., on October 1, 2013.
- ^{2/} Assistant principals do not work under a PSC.

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.