

SABRINA DUKES,

Appellant

v.

BALTIMORE CITY BOARD OF
SCHOOL COMMISSIONERS,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 14-60

OPINION

INTRODUCTION

Sabrina Dukes (Appellant) appeals the decision of the Baltimore City Board of School Commissioners (local board) suspending her for one day from her position as a school bus driver for insubordination. The local board submitted a Motion for Summary Affirmance, maintaining that its decision was not arbitrary, unreasonable, or illegal. Appellant responded to the motion and the local board replied.

FACTUAL BACKGROUND

Appellant has worked as a bus driver for Baltimore City Public Schools (BCPS) for seven years. Prior to that, she drove buses for private contractors that transported school students. (T.8, 17-18). Each morning as part of her route, Appellant picks up and transports approximately nine children to school, including one student who is in a wheelchair. (T. 16-17). Appellant always has one aide assigned to her bus to assist her. (T. 56).

On the morning of January 27, 2014, Allen Meachem, supervisor of school bus operations for BCPS, informed Appellant that her regularly assigned aide was unavailable. He told her she would need to pick up an aide from City Wide, a company that contracts with BCPS. Appellant met the aide at the designated pickup location and asked if she knew how to secure wheelchairs. The aide told her that she did not. (T. 8-10, 33-34).

Appellant contacted BCPS dispatch and informed them that the replacement aide did not know how to secure wheelchairs. Dispatch suggested she take a different aide along on her run, but the second aide also was unfamiliar with how to secure wheelchairs. (T. 10). Appellant then called Mr. Meachem. He informed Appellant that they were short staffed and that she would need to assist the aide in securing the wheelchair. Appellant requested the assistance of a specific BCPS aide, but that aide was already assigned to another bus. She questioned whether she was required to do her job and that of the aide. Mr. Meachem told Appellant she needed to “step up to the plate and do the job.” He gave her an ultimatum: complete her route or return the bus to the lot. Appellant decided to return the bus back to the lot. As a result, BCPS had to hire a contract driver to complete Appellant’s assigned route. (T. 9-11, 33-34, 39).

That same day, Appellant received a letter from Mr. Meachem suspending her for one day without pay for “failure to follow the directive of a supervisor.” The letter explained to Appellant that helping secure wheelchairs was a part of her duties as a bus driver. (Motion, Ex. 1). Appellant appealed the suspension to the BCPS transportation director, who held a hearing and upheld the decision. Appellant appealed that decision to James Scroggins, BCPS chief operating officer, who also upheld the suspension. (T. 42-44).

Appellant next appealed to the local board, which referred the matter to a hearing examiner. A hearing was held on April 10, 2014, during which Appellant was represented by her union. BCPS presented testimony from Mr. Meachem, supervisor of school bus operations; Steven Jones, safety and training supervisor; and Mr. Scroggins, chief operating officer. Appellant testified on her own behalf. (Motion, Ex. 2).

During the hearing, Mr. Jones explained that all bus drivers are trained in how to secure wheelchairs and they receive training updates each year, which include discussions on transporting special needs students. (T. 58, 81-84). BCPS presented a bus driver job description that listed one of the essential functions of the job as ensuring that “disabled and pre-school children are wearing appropriate seat and safety belts.” (Motion, CEO Ex. 1). BCPS introduced documents indicating that Appellant attended annual trainings between 2008 and 2013 during which the topic of “transporting students with special needs” was discussed. (Motion, CEO Ex. 5). In addition, Appellant attended individual training sessions between 2008 and 2013 that included information on safety restraints, wheelchair securement, wheelchair tie downs, and occupant restraints.¹ (Motion, CEO Ex. 6). Appellant denied receiving training on securing wheelchairs and explained that her aide was the one who handled that task. (T. 13-14).

The hearing examiner issued findings of fact and conclusions of law in which she recommended upholding the suspension. She determined that Appellant “had attended multiple training sessions on the securement of wheelchairs” and was aware that “it was a primary duty [of a bus driver] to make sure that the bus attendant properly secured the wheelchair.” The hearing examiner found that it was “not believable” that Appellant “would transport students in wheelchairs for over eleven years, attend training on the securement of wheelchairs and not know how to make sure that a wheelchair bound student is safe and secure while being transported on her bus.” The hearing examiner concluded it was “more than reasonable” for BCPS to suspend Appellant for one day. (Motion, Ex. 4).

On May 27, 2014, the local board voted to accept the recommendation and affirm the suspension. (Motion, Ex. 5). This appeal to the State Board followed.

STANDARD OF REVIEW

A non-certificated employee is entitled to administrative review of a termination pursuant to ' 4-205(c) of the Education Article. *See Brown v. Queen Anne's County Bd. of Educ.*, MSBE Op. No. 13-37 (2013). The decision of the local board is presumed to be *prima facie* correct and the State Board will not substitute its judgment for that of the local board unless the decision is

¹ During the hearing, BCPS presented evidence of past disciplinary incidents involving Appellant. These incidents are not directly relevant to the present appeal.

shown to be arbitrary, unreasonable or illegal. COMAR 13A.01.05.05A.

LEGAL ANALYSIS

Appellant challenges as unreasonable her one-day suspension for not following a superior's directive. She also seeks to present additional evidence as part of her appeal.

Additional evidence

Appellant offers 10 exhibits on appeal that she claims she was not allowed to introduce during the hearing and were therefore not considered by the local board. These include agendas from training sessions, questions she wanted to be asked during the hearing, a list of six drivers who claimed to have not been trained on how to secure wheelchairs, a wheelchair securement training confirmation form from March 2014, and a school bus aide job description.

Additional evidence may be considered if it is "shown to the satisfaction of the State Board that the additional evidence is material and that there were good reasons for the failure to offer the evidence in the proceedings before the local board." COMAR 13A.01.05.04C. Appellant had union representation during her hearing and testified on her own behalf. There is no indication in the transcript that Appellant was barred from presenting these documents or offering certain testimony. For these reasons, we decline to consider Appellant's additional evidence.

Reasonableness of the suspension

Appellant offers several reasons why she believes her suspension was unreasonable. First, she argues that she was being asked to do the job of an aide and that the substitute aides were to blame for being unable, or unwilling, to secure the wheelchair on her bus. Appellant's claim that the aides should have been able to secure a wheelchair is not relevant to the inquiry here.

The question is whether Appellant was expected to know how to secure a wheelchair as part of her job. The record indicates that she had been transporting children in wheelchairs for roughly seven years as a BCPS bus driver. She attended regular training sessions that focused on transporting special needs students. Appellant maintains that she never had to secure a wheelchair before because her bus aide always did it for her. But even if the aide typically handled this task, BCPS presented evidence that bus drivers are required to know how to secure wheelchairs, in part to ensure that all children on their buses are transported safely. (T. 58-59). Appellant acknowledged that she was "supposed to go behind the aide and make sure the wheelchairs [were] secured," which she did by shaking the chair and making sure "it's not loose or anything." (T. 13-14). In our view, knowing how to secure a wheelchair was part of Appellant's job of driving special needs children to school safely on the bus. It was, therefore, not unreasonable for BCPS to have expected Appellant to be able to secure a wheelchair as part of her job.

The Appellant argues that there were misunderstandings between her and Mr. Meachem when they spoke over the phone. For instance, she asserts that she never refused to assist the aide. Instead, she claims she merely asked whether she had to do her job and that of the aide. In our view, Mr. Meachem could reasonably have taken that statement to mean that Appellant was refusing to assist the aide.

CONCLUSION

For all these reasons, we affirm the decision of the local board because it is not arbitrary, unreasonable, or illegal.

ABSENT

Charlene M. Dukes
President

Mary Kay Finan
Mary Kay Finan
Vice President

James H. DeGraffenreidt, Jr.
James H. DeGraffenreidt, Jr.

Linda Eberhart
Linda Eberhart

ABSTAIN

S. James Gates, Jr.

Larry Giammo
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ABSENT

Luisa Montero-Diaz

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Guffie M. Smith, Jr.
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October 28, 2014