

THOMAS TYLER
Appellant

v.

HARFORD COUNTY
BOARD OF EDUCATION,
Appellee

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Order No. OR14-08

ORDER

In this appeal, the Appellant challenges the local board's decision to uphold his demotion from his position as Assistant Supervisor of Facilities Maintenance to the position of Preventative Maintenance Technician.

During the proceedings below, the local board referred Appellant's appeal to one of its hearing examiners for review. After conducting a hearing over the course of four days, on November 4, 2013, the hearing examiner issued his Findings of Fact, Conclusions of Law, and Recommendation in which he found that the decision of the Superintendent's Designee to demote the Appellant was arbitrary and unreasonable. The hearing officer recommended that the local board reinstate the Appellant to his former position as Assistant Supervisor of Facilities Maintenance. (LB Ex.9).

In response, the Interim Superintendent filed with the local board 92 exceptions to the hearing examiner's Findings of Fact, Conclusions of Law, and Recommendation, to which the Appellant responded.

In a decision issued May 5, 2014, the local board "concluded by a vote of 4-1 that based on the facts and law there was a sufficient basis for it to reverse the decision of the Hearing Examiner" and affirmed the decision of the Superintendent's Designee to demote the Appellant to the Preventative Maintenance Technician position. (LB Ex.1). The local board stated:

Based on the record in this case, which established that Appellant had taken time away from work on at least two occasions without permission, the decision of the Superintendent's Designee to demote Appellant was based on substantial evidence, i.e., that a reasoning mind could arrive at the same conclusion and decision of the Superintendent's Designee. A Superintendent must be able to repose trust and confidence in the judgment of a subordinate.

The decision noted, without citing transcript pages, that the Superintendent's Designee testified "that trust was required in the type of work performed by Appellant" and that he believed "multiple occurrences of a breach of trust had occurred" which compromised Appellant's ability to supervise his staff. The decision, however, contains no explanation of the

facts relied upon by the local board to support its decision to uphold the demotion, and no real analysis of that decision in light of the facts. It is not even clear what specific actions of the Appellant the local board is relying upon to support its decision given all of the testimony about what time the Appellant may have taken away from work or not. The decision cites numerous cases but does little to explain the local board's reasons for rejecting the hearing examiner's Findings of Fact, Conclusions of Law, and Recommendation and does not address the exceptions that were filed other than stating that the board considered "the memorandum of counsel" and "oral arguments."

The State Board has previously held that the local board must explain the reasoning behind its decisions, and that it is particularly important for the Board to understand a local board's rationale when it rejects a hearing examiner's recommendation. *Timothy Valenzia v. Baltimore City Bd. of Sch. Comm'rs*, MSBE Op. No. 12-26 (2012); *See also Mohan G. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 08-15 (2008). The State Board should not have to read the record, speculate upon the portions which probably were believed by the board, and construct a basis for the decision to try to determine whether the decision should be sustained. *Timothy Valenzia v. Baltimore City Bd. of Sch. Comm'rs*, MSBE Op. No. 12-26 (2012).

Other than the local board's conclusory statements and a reference to a few sentences of testimony by the Superintendent's Designee, the State Board is left to speculate as to what facts set forth in the 683 transcript pages of witness testimony and the additional documentary evidence, as well as the 92 exceptions submitted by the Superintendent, were relied upon by the local board to reject the hearing examiner's decision and uphold the demotion decision.

Therefore, it is this 23rd day of September, 2014 by the Maryland State Board of Education,

ORDERED, that the local board's decision is remanded for further explanation within 60 days of the reasons for its decision.

MARYLAND STATE BOARD OF EDUCATION



Charlene M. Dukes
President