A.D. NO. B81-13659-79554
S.S. NO [redacted]
B.O. NO. 37
D1 Pg 5.01

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF BAY

MICHIGAN EMPLOYMENT SECURITY COMMISSION,
Plaintiff,

v

DEBRA A. WISNIEWSKI and BAY CITY BOARD OF EDUCATION,
Defendants.

_____/

Civil Action No. 82-3591

Honorable Eugene C. Penzien

FRANK J. KELLEY, Attorney General
for the State of Michigan

By: DAVID A. VOGES (P25143)
Assistant Attorney General
Attorneys for Michigan Employment
Security Commission

ELI GRIER (P14374)
Attorney for Defendant Debra A. Wisniewski

WILLIAM W. ALLSOPP (P26839)
Attorney for Defendant Bay City Board of
Education

OPINION

Bay City, Michigan

Monday, June 25, 1984 - At about 3:50 P.M.

(Court, counsel present.)

THE COURT: The - as I understand the standards here, I'm to reverse the Board only if I can find that there is no reasonable application of the facts or - no reasonable interpretation of the facts that support their factual determinations and/or unless I can find that they misapplied the law to those facts that they found.

The School Board had the burden of proof at the hearing and what they showed, basically, was that they had sent a letter telling the claimant that she had a reasonable assurance that she would be employed in a same or similar capacity. There was nothing to indicate that - well, they had an open-ended substitution list that even at the time of the hearing had not closed and presumably, could have added as many as the School Board wished - could have had added to it as many as the School Board wished to add to it.

The assurance need not be a certainty, certainly, but it certainly ought to be reasonably certain. The - the Board - the employee is entitled to have some basis for, I think under the Act, this is not apparently, the Pennsylvania road, but I think that when the Act says a reasonable assurance, they mean that there ought to be some kind of set of facts which lets the employee have some fairly strong reason

to believe that the employment will be there. Here, all the employee got was a letter saying she had something which the letter did not provide to her and as far as the School Board showed at the hearing, she had nothing else to go on.

I'm not saying that, in fact, she didn't have anything else to go on. The School Board may have had a long history of how they handle things and might have been able to show that they - that she, in fact, knew enough to know that she would have a job, but they didn't.

I don't think it's too heavy a burden. Certainly the School Board could - could set up some kind of priorities in their list, could say these people who have worked here this year will get first crack next year which would give them, I think, some reasonable assurance that they would be likely to work, especially if the School Board adds to it some kind of a statement as to what their normal attrition rate is or history has been so that the employee gets some understanding of what the chances are. And I think that's what the employee is supposed to get. And, the chances ought to be fairly strong that that employee will, in fact, come back to work. And this notice here, I don't think, gave the employee any - any reasonable assurance.

Though while I would not have necessarily written an opinion exactly the way the Board of Review wrote it, I do not believe that they erred in the application of the

law or the facts - the ultimate fact was that the employee had not been given a reasonable assurance of service in the following year term. And I agree with that ultimate conclusion.

So, the Board of Review will be affirmed.

(At about 4:00 P.M., proceedings concluded; end of excerpt.)

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