

STATE OF MICHIGAN
COURT OF APPEALS

JUANITA HOOSE,

Plaintiff-Appellant/Cross-Appellee,

v

BOARD OF EDUCATION OF THE LAPEER
COMMUNITY SCHOOLS,

Defendant-Appellee/Cross-Appellant.

UNPUBLISHED

August 13, 1996

No. 183734

LC No. 94-000014

Before: Neff, P.J., and Fitzgerald and C.A. Nelson,* JJ.

PER CURIAM.

Plaintiff appeals as of right the decision of the State Tenure Commission upholding defendant Lapeer County Board of Education's termination of plaintiff's employment as an elementary school teacher. Defendant cross-appeals, claiming the Tenure Commission erred as a matter of law when it dismissed defendant's cross-exceptions that addressed matters not raised by plaintiff's exceptions. We affirm.

A teacher on continuing tenure may be discharged or demoted only for reasonable and just cause. MCL 38.101; MSA 15.2001. This standard has been construed to forbid discharge unless the activity complained of bears a rational and specific relationship to a detrimental effect on the school and the students. *Detroit Bd of Ed v Parks*, 417 Mich 268, 281; 335 NW2d 641 (1983). The commission relied on its decisions in *Abraham v Bd of Ed for the Detroit Public School Dist*, (94-6), and *Fortson v Detroit Bd of Ed*, (83-47) in affirming plaintiff's discharge; in those cases, the commission found that "evidence that a teacher frequently employs improper grammar in the classroom lends strong support to a finding of incompetence" particularly where, as here, the teacher bears the responsibility for teaching English. When reviewing a decision of the State Tenure Commission pursuant to MCL 38.104(7); MSA 15.2004(7), this Court determines if the decision is supported by competent, material, and substantial evidence on the whole record. MCL 24.306(1)(d); MSA 3.560(206)(1)(d).

*Circuit judge, sitting on the Court of Appeals by assignment.

Contrary to plaintiff's assertions that her grammatical and spelling errors were only "occasional," the record provides ample evidence from which the commission could reasonably conclude that plaintiff's problems with grammar and spelling pervaded nearly every aspect of her teaching and adversely impacted her students. A review of the exhibits reveals that virtually all of plaintiff's written communications were peppered with spelling and grammatical errors, and plaintiff's testimony at the hearing illustrated her deficiencies in the realm of spoken language. Thus, substantial evidence was presented to warrant the conclusion that because plaintiff's considerable lack of language skills resulted in her students being subjected to hearing incorrect grammar and seeing incorrect spelling on almost a daily basis, plaintiff's deficiencies bore a rational and specific relationship to a detrimental effect on the school and the students. *Parks, supra* at 281. Consequently, the commission's decision upholding plaintiff's discharge must be affirmed.

Plaintiff next contends that defendant failed to provide her with a reasonable opportunity to improve, as required under *Bd of Ed of Benton Harbor Area Schools v Wolff*, 139 Mich App 148, 155; 361 NW2d 750 (1984). In the instant case, the commission's conclusion that a two-year period of time constituted a reasonable opportunity to improve was supported by competent, material and substantial evidence. The record further shows that, although not required to do so under the holding in *Wolff*, plaintiff's principal provided plaintiff with substantial support in the form of written plans of assistance and suggestions for improving her teaching performance, none of which were consistently implemented by plaintiff. As in *Wolff, supra*, "the evidence is clear that [defendant] . . . went beyond its obligation to notify [plaintiff] . . . of her inadequate performance and to allow her a reasonable time for improvement." *Id.* at 159.

Regarding defendant's cross-appeal, we find no error in the commission's interpretation of MCL 38.104(5); MSA 15.2004(5) to limit the matters raised in cross-exceptions to those raised in the exceptions. Not only is the commission's interpretation of the statute entitled to deference as a reasonable exercise of its role in interpreting the statute it is charged with administering, but it is firmly supported by a full reading of the relevant statutory provisions. *Ludington Service Corp v Ins Comm'r*, 444 Mich 481, 491; 511 NW2d 661 (1994).

Subsection (m) of the statute is dispositive of this issue, in that it expressly limits the commission's review "to consideration of the issues raised in the exceptions based solely on the evidence contained in the record from the hearing." MCL 38.104(5)(m); MSA 15.2004(5)(m). Because this section sets forth the scope of review of the commission, issues raised outside that scope are not within its jurisdiction. The commission may, on its own initiative, raise jurisdictional issues at any time. *Ass'n of Businesses Advocating Tariff Equity v Michigan Public Service Comm*, 192 Mich App 19, 24; 480 NW2d 585 (1991). Therefore, regardless of whether plaintiff's motion to strike complied with the procedural rules, the commission was entitled to and, under subsection (m), bound to disregard any issues not raised by way of exceptions. Consequently, the commission's dismissal of defendant's cross-exceptions must be affirmed.

Because defendant has failed to cite any authority in support of its other issues on appeal, we deem those issues to be abandoned. *Winiemko v Valenti*, 203 Mich App 411, 419; 513 NW2d 181 (1994).

Affirmed.

/s/ Janet T. Neff

/s/ E. Thomas Fitzgerald

/s/ Charles A. Nelson