

STATE OF MICHIGAN  
COURT OF APPEALS

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E. JAMES RYNEARSON,

Plaintiff–Appellee,

v

MELVINDALE-NORTHERN ALLEN PARK  
SCHOOL DISTRICT,

Defendant–Appellant.

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UNPUBLISHED

November 15, 1996

No. 186530

LC No. 94-000035

Before: Michael J. Kelly, P.J., and Hoekstra and E.A. Quinnell,\* JJ.

MEMORANDUM.

Defendant appeals as of right from a decision and order of the State Tenure Commission granting plaintiff's appeal and ordering that plaintiff be reinstated as a classroom teacher and paid lost salary. We reverse.

Defendant raises several issues on appeal, one of which we find warrants reversal. This Court reviews a decision of the State Tenure Commission to determine whether the decision is supported by competent, material and substantial evidence on the whole record. *Birmingham School District v Buck*, 211 Mich App 523, 524; 536 NW2d 297 (1995). Our review of the record in the instant case convinces us that while the commission's other findings were supported by competent, material and substantial evidence, its finding with respect to defendant's claim of laches was not.

The equitable doctrine of laches is used to remedy "the general inconvenience resulting from delay in the assertion of a legal right which it is practicable to assert." *Public Health Dep't v Rivergate Manor*, 452 Mich 495, 507; 550 NW2d 515 (1996), citing *Lenawee Co v Nutten*, 234 Mich 391, 396; 208 NW 613 (1926). A passage of time, combined with prejudice to the defendant and a lack of diligence by the plaintiff, are all necessary to successfully assert laches. *Tomczik v State Tenure Comm*, 175 Mich App 495, 503; 438 NW2d 642 (1989). Here, the commission concluded that laches did not bar plaintiff's claim for a teaching position and back pay. We find this decision to be supported by neither substantial nor competent evidence. The record clearly indicates that plaintiff was aware of his tenure right to assert a claim for a teaching position as early as June 1989; yet he chose not

to pursue that right until August 1994, well after his three circuit court actions concerning his dismissal as superintendent had either been dismissed, heard and rejected by this Court, or denied leave to appeal by our Supreme Court. Plaintiff's decision to wait more than five years before again expressing an intent to pursue a teaching position, after vigorously pursuing his reinstatement as an administrator, necessarily prejudiced defendant and evidenced a lack of diligence on plaintiff's part.

Reversed.

/s/ Joel P. Hoekstra

/s/ Edward A. Quinnell

Judge Michael J. Kelly did not participate.