

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

JACKIE FOWLER,

Appellant,

v.

CASE NO. 1D07-4826

ESCAMBIA COUNTY SCHOOL
BOARD,

Appellee.

_____ /

Opinion filed September 22, 2008.

An appeal from an order of the Escambia County School Board.

H.B. Stivers of Levine, Stivers & Myers, Tallahassee, for Appellant.

Joseph L. Hammons of Hammons, Hammons & Whittaker, Pensacola, for Appellee.

PER CURIAM.

Jackie Fowler appeals from an order of the Escambia County School Board, upholding Fowler's termination from employment. In so doing, the School Board rejected the recommendation of the administrative law judge who conducted a formal hearing of Fowler's challenge to her termination and ultimately recommended that

Fowler be reinstated. The School Board improperly rejected a number of the ALJ's findings of fact. The material factual findings in the judge's recommended order were supported by competent substantial evidence, so the School Board was not at liberty to reject or modify them. See § 120.57(1)(1), Florida Statutes (2007); Prysi v. Dep't of Health, 823 So. 2d 823, 825 (Fla. 1st DCA 2002); Strickland v. Florida A&M Univ., 799 So. 2d 276 (Fla. 1st DCA 2001); Dep't of Bus. & Prof'l Reg. v. McCarthy, 638 So. 2d 574 (Fla. 1st DCA 1994); Greseth v. Dep't of Health & Rehab. Servs., 573 So. 2d 1004 (Fla. 4th DCA 1991); Farris v. Austin, 487 So. 2d 1163 (Fla. 5th DCA 1986); Forehand v. Sch. Bd. of Washington County, 481 So. 2d 953 (Fla. 1st DCA 1986); Heifetz v. Dep't of Bus. Reg., Div. of Alcoholic Beverages & Tobacco, 475 So. 2d 1277, 1281-83 (Fla. 1st DCA 1985).

We therefore reverse and remand for entry of a final order adopting the material findings, conclusions and recommendations of the administrative law judge.

Reversed and remanded.

BROWNING, C.J., PADOVANO, and POLSTON, JJ., CONCUR.