

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DEPARTMENT OF HEALTH AND	§
SOCIAL SERVICES and the MERIT	§ No. 560, 2015
EMPLOYEE RELATIONS BOARD,	§
	§
Appellees Below,	§ Court Below—Superior Court
Appellants,	§ of the State of Delaware,
	§ in and for New Castle County
v.	§ C.A. No. N14A-03-001 DCS
	§
TUESDAY S. BANNER,	§
	§
Appellant Below,	§
Appellee.	§

Submitted: November 2, 2015
Decided: November 16, 2015

Before **HOLLAND, VALIHURA, and VAUGHN**, Justices.

ORDER

This 16th day of November 2015, having considered the notice of appeal from an interlocutory order, the supplemental notice of appeal from an interlocutory order, and the motion to stay pending the outcome of the appeal, it appears to the Court that:

(1) The appellant, the Department of Health and Social Services (“DHSS”), has petitioned this Court, under Supreme Court Rule 42, to accept an appeal from the Superior Court’s September 28, 2015 opinion reversing a decision of the Merit Employee Relations Board (“MERB”) and remanding the matter to

the MERB. DHSS has also filed a motion to stay pending the outcome of the appeal.

(2) On October 7, 2015, DHSS filed an application for certification to take an interlocutory appeal and a stay of proceedings in the Superior Court. In an order dated October 23, 2015, the Superior Court denied DHSS' application for certification and a stay of proceedings. Having considered the October 23, 2015 order, this Court agrees with the Superior Court's denial of certification. The Rule 42(b) principles and criteria do not weigh in favor of interlocutory review of the Superior Court's September 28, 2015 opinion.

(3) Applications for interlocutory review are addressed to the sound discretion of the Court. In the exercise of its discretion, the Court has concluded that the application for interlocutory review does not meet the requirements of Rule 42(b) and should be refused.

NOW, THEREFORE, IT IS HEREBY ORDERED that the interlocutory appeal is REFUSED. The motion to stay is MOOT.

BY THE COURT:

/s/ Karen L. Valihura
Justice