

#238-10R (OAL Decision: Not yet available online)

E.P.F., on behalf of minor child, M.W., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
TOWNSHIP OF MOUNT OLIVE,
MORRIS COUNTY, :
RESPONDENT. :

SYNOPSIS

This residency matter was remanded to the OAL in May 2010. Petitioner filed a *Pro Se* residency appeal, challenging the respondent Board's determination that her niece, M.W., is not entitled to a free public education in the Mt. Olive School District. Petitioner stated that she is M.W.'s guardian, her niece relocated from Florida to live with her because of conflicts with her stepfather and because she missed petitioner and her grandmother, and M.W.'s parents will continue to support her financially. Respondent Board filed a counterclaim seeking payment of tuition for the number of days M.W. attended school in the district. The ALJ determined that M.W. is not entitled to a free public education in Mt. Olive schools, and that the district is entitled to reimbursement for tuition for the period of M.W.'s ineligible attendance at the rate of \$75 per day. The Commissioner adopted the findings of the ALJ, but remanded the case to the OAL for factual findings regarding the tuition due to respondent.

On remand, the ALJ found that: M.W. attended school in respondent's district for 34 days, from February 5, 2010 until March 26, 2010; M.W. was not eligible for a free public education in Mt. Olive schools; the per diem tuition rate in Mt. Olive this year is \$75; and respondent did not seek pre- or post-judgment interest. The ALJ concluded that the correct amount that the Board can bill E.P.F. for M.W.'s ineligible attendance is \$2,550, and ordered petitioner to make payment in this amount within fourteen days of the date of this decision.

Upon review of the supplemented record, the Commissioner adopted the Initial Decision of the OAL as the final decision in this matter, and directed petitioner to compensate the Board in accordance with this decision.

<p>This synopsis is not part of the Commissioner's decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.</p>

August 5, 2010

OAL DKT. NO. EDU 5428-10
(EDU 1980-10 ON REMAND)
AGENCY DKT. NO. 18-2/10

E.P.F., on behalf of minor child, M.W., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
TOWNSHIP OF MOUNT OLIVE,
MORRIS COUNTY, :
RESPONDENT. :

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The parties did not file exceptions to the Initial Decision.

This residency matter was remanded to the OAL on May 12, 2010 solely for expansion of the record to include evidentiary findings with respect to the amount of the tuition due and owing the Board of Education of Mount Olive as a consequence of minor child, M.W.'s, ineligible attendance in the District's schools. Upon review of the supplemented record, the Commissioner is in accord with the ALJ's conclusion – based upon the certification of Susan M. Decker, the District's Assistant Superintendent for Business – that petitioner must compensate the Board in the amount of \$2,550.00 for the period of M.W.'s ineligible attendance in the Board's schools (February 5, 2010 through March 26, 2010, a total of 34 days, @ \$75.00 per day).

Accordingly, the Initial Decision of the OAL is adopted for the reasons stated therein. Petitioner is directed to compensate the Board in accordance with this decision and the instant petition of appeal is hereby dismissed.

IT IS SO ORDERED.*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: August 5, 2010

Date of Mailing: August 5, 2010

* This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36 (N.J.S.A. 18A:6-9.1)*.