

#268-15 (OAL Decision: Not yet available online)

K.I., ON BEHALF OF MINOR CHILD, A.M., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
TOWNSHIP OF WEST ORANGE,
ESSEX COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioner challenged the respondent Board’s determination that her child, A.M., was not entitled to a free public education in the Township of West Orange schools during the 2014-2015 school year. Petitioner asserted that her legal domicile is with her parents in West Orange, but that for security reasons she was temporarily living with her boyfriend in Orange. Petitioner contended, however, that A.M. stayed with her grandparents in West Orange during the week. The respondent Board argued that a residency investigation had revealed that K.I. and A.M. were not domiciled in West Orange, but instead lived in Orange. The Board sought reimbursement for tuition from the beginning of the residency investigation on February 26, 2015, through the date of notification to petitioner on April 20, 2015 that the Board had voted to remove A.M. from its schools, as well as for the balance of the 2014-2015 school year. A hearing in the matter was held at the Office of Administrative Law (OAL) on July 2, 2015.

The ALJ found, *inter alia*, that: during the respondent’s residency investigation, repeated surveillance at petitioner’s purported West Orange address failed to detect petitioner or A.M. leaving the residence to go to A.M.’s school, which is around the corner from the house in question; petitioner and A.M. were observed multiple times leaving an address in Orange in the early morning hours; a residency hearing was conducted by the respondent Board on April 13, 2015; K.I. credibly testified that she had been staying in Orange with her boyfriend during the period of the residency investigation because of a restraining order against A.M.’s father; no further investigation was conducted subsequent to the April residency hearing; and following that hearing, A.M. resided with her parents for the rest of the school year. The ALJ concluded that petitioner did not live in West Orange from February to April 2015, but did reside in the district after the April residency hearing, since the Board submitted no proof to find otherwise. Accordingly, the ALJ determined that the Board is entitled to recover tuition for the thirty-two school days A.M. attended school in West Orange from February to April 2015, and ordered petitioner to pay the Board the amount of \$2,738.24. The petition was dismissed.

Upon review of the record and the Initial Decision, the Commissioner concurred with the ALJ’s findings and conclusions. Accordingly, the Initial Decision was adopted as the final decision in this matter.

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.

August 12, 2015

OAL DKT. NO. EDU 7076-15
AGENCY DKT. NO. 106-5/15

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PETITIONER, :
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The record of this matter¹ and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The parties did not file exceptions.

Upon such review, the Commissioner finds that petitioner failed to sustain her burden of establishing that she was a domiciliary of West Orange Township between February 26, 2015 and April 20, 2015. In fact, petitioner testified that she and her daughter left the West Orange residence (where petitioner's parents reside) and were residing in Orange, New Jersey throughout the time period in question. (Initial Decision at 2) As a result, A.M. was not eligible to receive a free public education in West Orange during this time.² Therefore, the Board is entitled to tuition reimbursement in the amount of \$2,738.24 (\$85.57/day for 32 days) – pursuant to *N.J.S.A. 18A:38-1b* – as detailed in the Initial Decision.

Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter. The petition of appeal is hereby dismissed. Petitioner is directed to reimburse the

¹ The record did not include transcripts from the hearing which occurred at the OAL on July 2, 2015.

² Although the Board sought tuition reimbursement through the end of the 2014-2015 school year, the Initial Decision suggests that petitioner and her child returned to West Orange after April 20, 2015 for the remainder of the school year and further indicates that the Board did not submit any proofs in support of its claim for tuition costs incurred between April 21, 2015 and June 19, 2015. (Initial Decision at 2-3)

Board in the amount of \$2,738.24 for tuition costs incurred during the time period that A.M. was ineligible to attend school in West Orange.

IT IS SO ORDERED.³

COMMISSIONER OF EDUCATION

Date of Decision: _____

Date of Mailing: _____

³ 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*).