

#469-04

OAL DKT. NOS. EDU 5341-04 AND
EDU 1901-03 (ON REMAND)
AGENCY DKT. NO. 338-10/02

M. N., on behalf of minor child, R.V., :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 BOARD OF EDUCATION OF THE CITY OF : DECISION
 CLIFTON, PASSAIC COUNTY, :
 :
 RESPONDENT. :
 _____ :

The Commissioner has reviewed the record of this remanded residency matter and advisement of failure to appear transmitted by the Office of Administrative Law (OAL) pursuant to *N.J.A.C.* 1:1-14.4, along with copies of the notification sent to the petitioner by the OAL on September 18, 2004, providing her ten days to submit an explanation for such nonappearance. Petitioner filed no explanation.

As a consequence of petitioner's failure to appear at the scheduled September 10, 2004 hearing to prosecute this residency matter, wherein she had the burden of establishing that her grandson, R.V., was entitled to a free public education in the Board's schools, petitioner was advised that the Commissioner proposed to grant the Board's counterclaim for tuition, in the amount of \$5,217.11, as recommended by Administrative Law Judge Sandra Ann Robinson in her prior Initial Decision in this matter.¹ Petitioner was accorded

¹ See letter to petitioner, dated October 29, 2004, from the Director of the Bureau of Controversies and Disputes.

an opportunity to except to the computation of this assessed amount.² Petitioner filed no submission contesting the amount of tuition claimed by the Board.

Accordingly, the instant Petition of Appeal is dismissed for failure to prosecute. Petitioner is hereby directed to pay the Board of Education of the City of Clifton \$5,217.11 for the period of her grandson, R.V.'s, ineligible attendance in its schools.

IT IS SO ORDERED.³

COMMISSIONER OF EDUCATION

Date of Decision: November 23, 2004

Date of Mailing: November 24, 2004

² Affidavit of Board Business Administrator and Board Secretary, Karen Perkins, computed tuition due and owing, as a result of R.V.'s ineligible attendance in its schools, as \$5,217.11 (136 school days at a per diem rate of \$50.77).

³ This decision may be appealed to the State Board of Education pursuant to *N.J.S.A.* 18A:6-27 *et seq.* and *N.J.A.C.* 6A:4-1.1 *et seq.*