

B.W., on behalf of minor children, S.L. and N.A., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE TOWNSHIP : DECISION
OF EWING, MERCER COUNTY, :
RESPONDENT. :
_____ :

SYNOPSIS

Petitioner – a resident of Ewing Township – contested respondent’s determination that her grandchildren, S.L. and N.A., are ineligible to attend school in respondent’s district, claiming that the children reside with her in her Ewing apartment because their mother, A.A., was having marital problems which prohibited caring for her children in her Trenton home. Respondent district counterclaimed for tuition reimbursement.

The ALJ found that: A.A. is the mother of S.L. and N.A., and is domiciled in Trenton; based on surveillance of A.A.’s residence, S.L. and N.A. reside with their mother in Trenton, and therefore were not properly domiciled in respondent’s school district as required under *N.J.S.A. 18A:38-1(a)*. Accordingly, the ALJ dismissed the petition; ordered that petitioner pay respondent tuition for S.L. in the amount of \$8,541, and for N.A. in the amount of \$6,931.08; and ordered the children disenrolled from Ewing Township Schools.

Upon a full and independent review of this matter, the Commissioner concurred with the findings of the ALJ and adopted the Initial Decision as the final decision in this matter. In so doing, she noted that although the record contains two court orders granting petitioner “residential custody” of S.L. and N.A., petitioner has failed to demonstrate by a preponderance of the credible evidence that the children *actually* lived with her. Accordingly, the Commissioner directed petitioner to remit tuition in the amount of \$15,4472.08 to the Board.

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.

OAL DKT. NO. EDU 2627-07
AGENCY DKT. NO. 92-3/07

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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.

Upon careful and independent review of the record in this matter, the Commissioner concurs with the Administrative Law Judge (ALJ) that petitioner has failed to demonstrate that S.L. and N.A. are domiciled within the Ewing Township School District so as to entitle them to attend school in the District free of charge pursuant to *N.J.S.A. 18A:38-1 et seq.*

It is noted that the record contains two court orders from the Superior Court of New Jersey Chancery Division – Family Part, County of Mercer, one dated January 24, 2007 and the other dated February 7, 2007, granting petitioner “residential custody” of N.A. and S.L., respectively. Notwithstanding such court orders, petitioner has failed to demonstrate by a preponderance of the credible evidence that these children were *actually* living with her thus entitling them to free attendance in the District’s schools.¹ *See I.B., on behalf of minor child, M.A. III v. Board of Education of the Township of Belleville, Essex County*, decided by the State Board of Education, December 6, 2006; *Also See D.M., on behalf of minor child, B.N. v. Board*

¹ The record, in fact, overwhelmingly precludes such a determination.

of Education of the Township of Ewing, Mercer County, decided by the State Board of Education, November 3, 2003, *appeal dismissed*, Docket #A-002172-03T3 (App. Div. 2004)

Accordingly, the Initial Decision of the OAL is adopted for the reasons expressed therein. The Commissioner hereby directs that petitioner remit to the Board tuition in the amount of \$8,541 for S.L.'s ineligible attendance in its schools and \$6,931.08 for that of N.A., for a total amount of \$15,472.08.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: August 21, 2007

Date of Mailing: August 21, 2007

² 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.*