

#344-08

L.C., on behalf of minor child, O.C., :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 BOARD OF EDUCATION OF THE : DECISION
 BOROUGH OF NORTH PLAINFIELD,
 SOMERSET COUNTY, :
 :
 RESPONDENT. :

SYNOPSIS

Petitioner filed a *pro se* residency appeal on behalf of her son, O.C., a student in respondent's school district. The respondent Board contends that O.C. is not eligible for a free public education in the district based on surveillance and information showing that petitioner is not a resident of North Plainfield. The petitioner failed to appear for a scheduled hearing on July 16, 2008, and the OAL returned the file to the Commissioner's Office of Controversies and Disputes.

Upon review of the record of this matter, it was noted that the record contains a handwritten note from the ALJ's secretary which indicates that on the day of the scheduled hearing, the petitioner telephoned the ALJ's office and stated that she was in her car and unable to find the hearing site. The ALJ's secretary advised petitioner that the judge had already dismissed the case because L.C. did not appear for the hearing. Accordingly, since petitioner provided the OAL with an explanation for her nonappearance, the matter was remanded to the OAL for disposition pursuant to *N.J.A.C.* 1:1-14.4 (a) 1 or 2, and for resolution of Board's counterclaim for tuition.

<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 14, 2008

OAL DKT. NO. EDU 4192-08
AGENCY DKT. NO. 95-4/08

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The record of this matter and advisement of failure to appear transmitted to the Commissioner 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 July 18, 2008, providing petitioner thirteen days to submit an explanation for such nonappearance have been reviewed. Upon such review, it is noted that the record contains a handwritten note from B.D.T. – Secretary to the Administrative Law Judge in this case – dated “7/16 10:30”, stating that “L.C. called – said she was in her car in Trenton and could not find our office. She said she’d left home at 8:30 and had been driving around since then. She had stopped several times to ask directions.” The note further reports that B.D.T. told L.C. “that the judge had dismissed the case because she did not appear...”

Given that on the day of the hearing petitioner L.C. provided the OAL with an explanation for her nonappearance, this matter is being returned to the OAL for further disposition pursuant to *N.J.A.C.* 1:1-14.4 (a) 1 or 2. It is further noted that the Board’s answer in

this residency matter contained a counterclaim for tuition which was left unresolved by the Administrative Law Judge.

Accordingly, this matter is hereby remanded to the OAL for further disposition as indicated herein.

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

Date of Decision: August 14, 2008

Date of Mailing: August 14, 2008