

N.V. on behalf of minor children :  
N.V.V. and V.N.V., :  
 :  
 PETITIONER, : COMMISSIONER OF EDUCATION  
V. :  
 : DECISION  
BOARD OF EDUCATION OF THE :  
TOWNSHIP OF EWING, :  
MERCER COUNTY, :  
 :  
 RESPONDENT. :  
\_\_\_\_\_ :

SYNOPSIS

Petitioner contested respondent Board’s determination that her children, N.V.V. and V.N.V., were ineligible to attend Ewing Township schools. Petitioner asserted that the children lived in Ewing, but spent time in Morrisville, Pennsylvania, at her boyfriend’s apartment. Respondent Board alleged that N.V.V. and V.N.V. lived in Morrisville with petitioner, and were dropped off in Ewing before the start of school each day. Respondent sought tuition reimbursement for the period of N.V.V. and V.N.V.’s ineligible attendance.

The ALJ found the results of the respondent Board’s surveillance of petitioner and her children to be credible, and the testimony of the Board’s witnesses to be straightforward and direct. He further found the petitioner not credible in that she offered no rebuttal to the results of the Board’s surveillance and simply contended that she had lived at the Ewing address in question her whole life, despite the fact that she and the children – during the period at issue – slept at an apartment in Morrisville which was leased in petitioner’s name. The ALJ concluded that the children are not entitled to a free public education in Ewing, and ordered petitioner to pay respondent tuition in the amount of \$14,352 for their period of ineligible attendance.

Upon a full and independent review, the Commissioner adopted the Initial Decision of the OAL 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.

OAL DKT. NO. EDU 874-08  
AGENCY DKT. NO. 46-2/08

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The record of this matter – including the parties’ exhibits and the Initial Decision of the Office of Administrative Law (OAL) – have been reviewed. No exceptions were filed. Based upon the credibility findings and the largely un rebutted proofs presented by respondent, the Commissioner accepts the finding of the Administrative Law Judge (ALJ) that petitioner was not domiciled in Ewing from April 2007 through November 1, 2007, and from February 28, 2008 through a date in June 2008. She is thus liable to respondent for tuition.

Respondent’s residency officer certified that the per diem tuition rate per elementary school child in Ewing for the period of time relevant to this case was \$55.20, and that the amount of days between April 2007 and April 28, 2008 that petitioner’s daughters had attended school in Ewing was 116. There is nothing in the record to rebut this. At the time of the Initial Decision, the days of attendance had increased to 130 – according to the ALJ – and petitioner has not challenged this figure in exceptions or by any other means. The Commissioner

consequently adopts the ALJ's findings concerning the amount of tuition due from petitioner to respondent.

In sum, the Initial Decision is adopted as the final decision in this case. Petitioner's minor children were not eligible for a free public education in Ewing during the time period in question. The sum of \$14,352.00 is due respondent. The petition is dismissed.

IT IS SO ORDERED.\*

COMMISSIONER OF EDUCATION

Date of Decision: July 23, 2008

Date of Mailing: July 23, 2008

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\* This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36*.