

#284-12 (OAL Decision: Not yet available online)

J.V. on behalf of minor child T.N.V., :
PETITIONER, : COMMISSIONER OF EDUCATION
V. : DECISION
BOARD OF EDUCATION OF THE TOWNSHIP OF :
WEST ORANGE, ESSEX COUNTY, :
RESPONDENT. :
_____ :

SYNOPSIS

Petitioner appealed the determination of the respondent Board that his daughter, T.N.V., was not eligible for a free public education in the West Orange school district during the 2011-2012 school year. Petitioner contended that he and his daughter are domiciled in West Orange with petitioner’s parents, and produced documentation including a child support document, a federal student loan bill, and an independent business registration. The Board asserted that petitioner does not live in West Orange, but rather in East Orange with his girlfriend – as evidenced by a lengthy residency investigation.

The ALJ found that: based on the reports from the residency investigation, petitioner and his daughter were never observed leaving for school directly from the home of J.V.’s parents in West Orange; petitioner and his daughter were repeatedly observed leaving for school from a house in East Orange; the documents submitted by petitioner do not prove actual residency; petitioner failed to produce any proof of residency such as voter registration, licenses, or financial account information that might demonstrate a personal attachment to a specific location; and petitioner failed to offer an affidavit or sworn attestation of his and his daughter’s residency. The ALJ concluded that the weight of evidence and testimony indicates that petitioner and his daughter resided in East Orange during the 2011-2012 school year, and accordingly ordered petitioner to reimburse the Board for tuition in the amount of \$84.09 per day for 183 days, or \$15,388.47.

Upon a full and independent review, the Commissioner concurred with the findings and conclusion of the ALJ concerning the disenrollment of T.N.V. from respondent’s school district. However, the Commissioner modified the tuition calculation based on the Board’s exhibit in the record stating that the school year consists of 180 days. Accordingly, the tuition owed was calculated at \$84.09 per day for 180 days, or \$15,136.20.

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.

July 16, 2012

OAL DKT. NO. EDU 2132-12
AGENCY DKT. NO. 373-12/11

J.V. on behalf of minor child T.N.V., :
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 PETITIONER, : COMMISSIONER OF EDUCATION
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The Commissioner has reviewed the record and the Initial Decision of the Office of Administrative Law (OAL) recommending that the petitioner's residency appeal be denied.¹ For the reasons identified by the Administrative Law Judge (ALJ), the Commissioner concludes that petitioner and his minor child were not domiciled in West Orange. Thus, the respondent Board appropriately disenrolled the child.

As to the amount of tuition due respondent, the single pertinent exhibit in the record states that the *per diem* tuition for T.N.V. was \$84.09, to be multiplied by 180 days – the total number of days of T.N.V.'s ineligible attendance. Thus, petitioner owes respondent tuition in the amount of \$15,136.20 for the 2011-2012 school year.

Accordingly, the petition is dismissed, petitioner's minor child is hereby disenrolled from respondent's school system, and petitioner is ordered to pay to respondent the aforementioned amount of back tuition.

IT IS SO ORDERED.²

ACTING COMMISSIONER OF EDUCATION

Date of Decision: July 16, 2012
Date of Mailing: July 17, 2012

¹ Neither party has filed exceptions to the Initial Decision.

² 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*)