

M.K., on behalf of minor children, V.K. :
and N.K., :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 BOARD OF EDUCATION OF THE : DECISION
 TOWNSHIP OF CRANFORD, :
 UNION COUNTY, :
 :
 RESPONDENT. :
 _____ :

SYNOPSIS

Petitioner filed an appeal of the determination of the Union County Executive Superintendent of Schools (County Superintendent) that she and her children, M.K. and V.K., were not homeless and therefore not entitled to a free education in the Cranford school district during the 2012-2013 school year; further, the County Superintendent identified Trenton as the family's district of residence. The children were enrolled in Cranford schools in August 2012 and attended until January 22, 2013. The respondent Board filed a counterclaim for tuition reimbursement. The matter was transmitted to the OAL for hearing.

The ALJ found that: telephone conferences in this matter were held in April 2013, during which petitioner contended that the family continued to be homeless, but that the children had begun to be home schooled after January 22, 2013; petitioner agreed verbally to settle the appeal and counterclaim, and counsel for respondent agreed to present a draft settlement for petitioner's signature; thereafter, counsel for respondent advised that petitioner would not agree to the settlement; petitioner failed to make herself available for a mandatory telephone conference scheduled for December 2013 despite appropriate notice of the date and the fact that petitioner's failure to make herself available for the conference would subject her appeal to dismissal for failure to prosecute. The ALJ concluded that there is just cause to dismiss the appeal with prejudice because of petitioner's lack of communication and cooperation; further, the ALJ concluded that the counterclaim for tuition should also be dismissed because petitioner's children only attended Cranford schools from their Trenton residence for a short period of time, which can be deemed transitional.

The Commissioner concurred with the ALJ that the matter is appropriately dismissed for failure to prosecute, and adopted the Initial Decision 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.

February 4, 2014

OAL DKT. NO. EDU 03968-13
AGENCY DKT. NO. 34-2/13

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	:	
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_____	:	

The record of this matter and the Initial Decision of the Office of Administrative Law have been reviewed. The parties did not file exceptions to the Initial Decision.

Upon such review, the Commissioner adopts the Initial Decision as the final decision for the reasons set forth therein. Accordingly, the petition is dismissed for failure to prosecute, and the Cranford Board of Education's counter-claim for tuition is also dismissed.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: February 4, 2014

Date of Mailing: February 5, 2014

* 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*).