

W.H., III, on behalf of minor children :
W.B.H. AND X.Q.H., :
 : COMMISSIONER OF EDUCATION
 PETITIONER, :
 : DECISION
 V. :
 :
 BOARD OF EDUCATION OF THE :
 TOWNSHIP OF EWING, MERCER :
 COUNTY, :
 :
 RESPONDENT. :
 _____ :

SYNOPSIS

Petitioner filed a *pro se* residency appeal on behalf of his children in March 2013. A hearing at the Office of Administrative Law (OAL) was scheduled for March 27, 2014, but petitioner failed to appear despite having received appropriate notice and provided no explanation for his nonappearance. Counsel for the Board did appear on March 27, 2014, and the ALJ conducted a hearing at which the Board presented testimony and *ex parte* proofs in support of its claim for tuition reimbursement.

The ALJ found that: petitioner failed to appear and prosecute his appeal of the Board's decision; based on the testimony of the school district's residency investigator, W.B.H. and X.Q.H. live in Trenton with their mother; no evidence was presented by the petitioner to refute the Board's proofs; and the Board's Attendance Officer testified that the total amount of tuition due and owing for the ineligible attendance of petitioner's children is \$35,394. The ALJ concluded that the determination of the Board that W.B.H. and X.Q.H. were not domiciled in Ewing should be upheld, and accordingly dismissed the petition and granted the Board's claim for tuition in the amount of \$35,394.

The Commissioner concurred with the ALJ's findings and conclusion, 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.

OAL DKT. NO. EDU 4900-13
AGENCY DKT. NO. 69-3/13

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Before the Commissioner is the question of whether petitioner's minor children were entitled to free public educations in respondent's school district. Upon review of the record and Initial Decision of the Office of Administrative Law (OAL),¹ the Commissioner concludes that they were not so entitled.

Petitioner failed to attend the properly noticed hearing in the OAL, and has not subsequently communicated reasons for his absence. As a result, the evidence presented by respondent concerning 1) the ineligibility of the minor children for a public education in its district, and 2) the tuition owed by petitioner for the education of his children in respondent's district, is unrebutted. The Administrative Law Judge (ALJ) concluded, therefore, that respondent was justified in disenrolling petitioner's children, and that petitioner owes respondent \$35,394 in tuition, as testified to by respondent's attendance officer, David Mikalauskas.

The Commissioner agrees. Accordingly, the petition is dismissed and petitioner is ordered to pay respondent tuition in the amount of \$35,394. The Commissioner also reminds

¹ Neither party filed exceptions to the Initial Decision.

petitioner of his obligation to ensure that his children are enrolled in the appropriate school district or private school – or are home schooled.

IT IS SO ORDERED.²

ACTING COMMISSIONER OF EDUCATION

Date of Decision: June 6, 2014

Date of Mailing: June 6, 2014

² This decision may be appealed to the Superior Court, Appellate Division, pursuant to *P.L. 2008, c. 36* (*N.J.S.A. 18A:6-9.1*).