

#300-15 (OAL Decision: Not yet available online)

N.W., ON BEHALF OF MINOR CHILD, T.W., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE BOROUGH : DECISION
OF PINE HILL, CAMDEN COUNTY, :
RESPONDENT. :
_____ :

SYNOPSIS

Petitioner challenged the residency determination of the respondent Board that his son, T.W., was ineligible for continued enrollment in Pine Hill schools. Respondent's determination was based on information provided by T.W. and his mother during a disciplinary hearing in February of 2015. Both T.W. and his mother advised the Board that T.W. and his father – N.W. – resided in Philadelphia, and took a train to New Jersey each morning to board a school bus at a relative's house. Petitioner contended that he has custody of his son from Wednesday to Sunday, and that he and T.W. share a room at his brother's home in Pine Hill. The Board sought to have T.W. removed from Pine Hill schools, and sought reimbursement of tuition for the period of his ineligible attendance.

The ALJ found, *inter alia*, that: petitioner bears the burden of proof by a preponderance of the evidence that he is domiciled within the school district; in this case, N.W. failed to produce any evidence that he was domiciled in Pine Hill; petitioner's driver's license lists his home address as Philadelphia; and, during a disciplinary hearing, both T.W. and his mother told Pine Hill's superintendent that T.W. lives in Philadelphia and takes the train to New Jersey every day for school. The ALJ concluded that the weight of the evidence indicates that during the period in question, N.W. and his son resided in Philadelphia. Accordingly, the ALJ affirmed the determination of the Board that T.W. was not domiciled in the Pine Hill school district, and ordered that petitioner reimburse the Board tuition at the rate of \$84.24 per day for the period from February 6, 2015 through the remainder of the 2014-2015 school year.

Upon review, the Commissioner concurred with the ALJ's findings and conclusion that the petitioner's son was not entitled to a free public education in Pine Hill schools. The Commissioner ordered petitioner to reimburse the Board for tuition in the amount of \$7,160.40 for tuition costs incurred during the 85 days of T.W.'s ineligible attendance in Pine Hill schools. The petition was dismissed.

<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>

September 24, 2015

OAL DKT. NO. EDU 4710-15
AGENCY DKT. NO. 41-3/15

N.W., ON BEHALF OF MINOR CHILD, T.W., :
PETITIONER, :
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BOARD OF EDUCATION OF THE BOROUGH : DECISION
OF PINE HILL, CAMDEN COUNTY, :
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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed.¹ The parties did not file exceptions.

Upon such review, the Commissioner concurs with the Administrative Law Judge's (ALJ) finding that petitioner failed to sustain his burden of establishing that he was a domiciliary of Pine Hill for the 2014-2015 school year. The Commissioner further concurs with the ALJ's conclusion that the minor child was, therefore, not entitled to a free public education in the District's schools during this time.

Pursuant to *N.J.S.A.* 18A:38-1b, the Commissioner shall assess tuition against petitioner for the time period during which the minor child was ineligible to attend school in Pine Hill. The ALJ ordered that petitioner reimburse the Board in the amount of \$84.24 per day from February 6, 2015 for the remainder of the 2014-2015 school year. Although the ALJ did not calculate the total amount of tuition owed to the Board, a review of the record indicates that there were 85 days of ineligible attendance by the minor child from February 6, 2015 through the

¹ The Commissioner was not provided with a transcript of the July 7, 2015 hearing at the OAL.

end of the 2014-2015 school year. Therefore, the Board is entitled to tuition reimbursement in the amount of \$7,160.40 (\$84.24 per day for 85 days), pursuant to *N.J.S.A.* 18A:38-1b.

Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter. Petitioner is directed to reimburse the Board in the amount of \$7,160.40 for tuition costs incurred during the time period that T.W. was ineligible to attend school in Pine Hill. The petition of appeal is hereby dismissed.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: September 24, 2015

Date of Mailing: September 24, 2015

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).