

#24-16 (OAL Decision: Not yet available online)

C.G., ON BEHALF OF MINOR CHILD, Z.R., :  
PETITIONER, :  
V. : COMMISSIONER OF EDUCATION  
BOARD OF EDUCATION OF THE : DECISION  
CITY OF WOODBURY, :  
GLOUCESTER COUNTY, :  
RESPONDENT. :

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SYNOPSIS

Petitioner filed a *pro se* residency appeal on behalf of her son in February 2015, seeking a determination that Z.R. resided in the City of Woodbury. Respondent Board counterclaimed for tuition. The matter was transmitted to the Office of Administrative Law (OAL) to ascertain petitioner's residency and the amount of any tuition due. In November 2015, the Board moved to dismiss the petition based on petitioner's failure to provide discovery. Petitioner failed to oppose the motion, and further failed to appear at oral argument on the matter despite having received appropriate notice.

The ALJ found, *inter alia*, that: pursuant to *N.J.S.A.* 18A:38-1, petitioner has the burden of proof in a determination of residency ineligibility; petitioner failed to participate in scheduled proceedings and provided no excuse for failure to provide discovery as required by *N.J.A.C.* 1:1-10.4; and petitioner has failed to file an answer to the Board's counterclaim for tuition. The ALJ concluded that he was compelled to grant the Board's motion to dismiss the petition. Accordingly, the ALJ ordered that the petition be dismissed, and further ordered that the respondent's counterclaim for tuition reimbursement in the amount of \$17,403 be granted. Additionally, the ALJ ordered that Z.R. be permitted to attend school in Woodbury through December 23, 2015, the last school day prior to the district's winter recess.

Upon review, the Commissioner concurred with the ALJ findings and conclusions, with modification regarding the amount of tuition reimbursement owed to the Board. The Commissioner declined to award \$333 in tuition for the three days that the ALJ ordered the school district to permit Z.R. to attend school through December 23, 2015, because the record contains no information to show that Z.R. did, in fact, continue to attend school through that date. Accordingly, the Commissioner ordered petitioner to reimburse the Board in the amount of \$17,070 for tuition costs incurred during Z.R.'s period of ineligible attendance in Woodbury schools.

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.

January 22, 2016

OAL DKT. NO. EDU 3310-15  
AGENCY DKT. NO. 30-2/15

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

Upon such review, the Commissioner finds that petitioner failed to sustain her burden of establishing that she was a domiciliary of Woodbury between January 23, 2015 and December 18, 2015.<sup>1</sup> As a result, Z.R. was not eligible to receive a free public education in Woodbury during this time.

Accordingly, the Initial Decision of the OAL is adopted, as modified herein.<sup>2</sup>  
Respondent's motion to dismiss the petition is hereby granted and the petition of appeal is

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<sup>1</sup> As indicated in the Initial Decision, petitioner failed to appear at the scheduled OAL hearing and failed to provide discovery in accordance with *N.J.A.C.* 1:1-10.4.

<sup>2</sup> The Commissioner concurs with the Administrative Law Judge that respondent is entitled to tuition reimbursement in the amount of \$100/day for 97 days of ineligible attendance during the 2014-2015 school year (\$9,700). With regard to the 2015-2016 school year, the certification of Superintendent Joseph Jones indicates in Paragraph 5 that the applicable tuition rate is \$111/day. However, Paragraph 7 of that same certification states that the tuition rate is \$110/day for 67 ineligible days of attendance through December 18, 2015 (\$7,370). Using these figures, the grand total becomes  $\$9,700 + \$7,370 = \$17,070$ , as illustrated in the certification. Yet, the ALJ awarded \$17,403 - adding on 3 additional days at the rate of \$111/day, as he ordered that Z.R. would be permitted to attend school in the district through December 23, 2015. The Commissioner declines to award the additional \$333 because the record does not contain information indicating that Z.R. did - in fact - continue to attend school in the district through December 23, 2015.

dismissed. Respondent's counterclaim for tuition is granted. Petitioner shall reimburse the Board in the amount of \$17,070 for tuition costs incurred during the time period that Z.R. was ineligible to attend school in Woodbury.

IT IS SO ORDERED.<sup>3</sup>

COMMISSIONER OF EDUCATION

Date of Decision: January 22, 2016

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<sup>3</sup> 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*) and applicable rules of court.