

C #265-98  
SB # 62-98

Y.A., SR., on behalf of minor, Y.A., JR., :  
PETITIONER-RESPONDENT, :  
V. : STATE BOARD OF EDUCATION  
BOARD OF EDUCATION OF THE : DECISION  
BOROUGH OF LAWNSIDE, CAMDEN :  
COUNTY, :  
RESPONDENT-APPELLANT. :

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Decided by the Commissioner of Education, June 18, 1998

For the Petitioner-Respondent, Y.A., Sr., pro se

For the Respondent-Appellant, Harvey C. Johnson, Esq.

On December 16, 1997, Y.A. (hereinafter "petitioner") filed a petition of appeal with the Commissioner of Education challenging the determination of the Board of Education of the Borough of Lawnside (hereinafter "Board") that his son, Y.A., Jr., was not domiciled in Lawnside and therefore was not entitled to a free public education in the district under N.J.S.A. 18A:38-1. The Board filed an answer to the petition in which it requested that the Commissioner assess tuition for the period of Y.A., Jr.'s attendance in the district.<sup>1</sup> The Commissioner transmitted the petition to the Office of Administrative Law for hearing. Petitioner, however, failed to appear for the hearing. Although he was given ten days to submit an explanation for his nonappearance, petitioner failed to do

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<sup>1</sup> N.J.S.A. 18A:38-1(b)(2) provides that "[I]f in the judgment of the commissioner the evidence does not support the claim of the parent or guardian, the commissioner shall assess the parent or guardian tuition for the student prorated to the time of the student's ineligible attendance in the schools of the district."

so. As a result, on June 18, 1998, the Commissioner dismissed the petition with prejudice. The Commissioner noted that “nothing herein precludes the District from filing a Petition of Appeal seeking to compel payment of tuition by petitioner.” Commissioner’s Decision, slip op. at 1, n.1.

On June 29, 1998, the Board filed the instant appeal to the State Board from the decision of the Commissioner, seeking an order directing the petitioner to pay tuition for the period of his son’s attendance in the district’s schools.

After review of the record, which as noted includes a request by the Board to the Commissioner for assessment of tuition, we remand this matter to the Commissioner for consideration of the Board’s request.

October 7, 1998

Date of mailing \_\_\_\_\_