

K.G., on behalf of minor child, M.K.E., :
 :
 PETITIONER, :
 : COMMISSIONER OF EDUCATION
 V. :
 :
 : DECISION
 BOARD OF EDUCATION OF THE TOWNSHIP :
 OF WEST ORANGE, ESSEX COUNTY, :
 :
 RESPONDENT. :
 :
 _____ :

SYNOPSIS

Petitioner filed a *pro se* residency appeal on behalf of her daughter in May 2014. The Board filed a counterclaim for tuition reimbursement. Petitioner could not be reached for a pre-hearing telephone conference on August 4, 2014, and failed to appear for a hearing conducted on September 15, 2014.

The ALJ found that: the uncontroverted testimony of the Board's residency investigator showed that on at least 15 occasions between March 26 and April 29, 2014, petitioner was observed driving to the West Orange address where she purported to be domiciled, and then walking her daughter to school; the investigator observed petitioner's car parked in front of an apartment building in Orange; and the Board's undisputed cost of educating M.K.E. for the period of her ineligible attendance was \$6,207.84. The ALJ concluded that M.K.E. was not domiciled in West Orange during the period in question, affirmed the Board's decision to remove M.K.E. from its school district, and granted the Board's application for tuition reimbursement in the amount of \$6,207.84.

The Commissioner concurred with the ALJ's determination and recommendation that petitioner's failure to prosecute this matter necessitates its dismissal and the award of tuition to the Board. Accordingly, the Initial Decision of the OAL was adopted as the final decision in this matter, and petitioner was ordered to pay tuition in the amount of \$6,207.84 for her child's ineligible attendance during the 2013-2014 school year.

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.

October 29, 2014

OAL DKT. NO. EDU 08236-14
AGENCY DKT. NO. 131-5/14

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The Administrative Law Judge's (ALJ) recommended decision in this matter dismissed petitioner's residency appeal as a consequence of her failure to appear at the hearing scheduled for this matter, without providing any explanation for the non-appearance. The ALJ further concluded that petitioner should be assessed tuition costs in the amount of \$6,207.84. The parties did not file exceptions to the Initial Decision.

At the request of respondent, and in accordance with *N.J.A.C. 1:1-14.4(d)*, an ex parte hearing was held during which the Board presented the testimony of Gerard Drappi, the district's residency officer, respecting the tuition due the Board for M.K.E.'s ineligible attendance in its schools. Based upon Mr. Drappi's undisputed testimony, the ALJ found that the school district's daily per pupil cost for the 2013-2014 school year was \$114.96. The ALJ further found that M.K.E. attended West Orange schools for a total of 54 days during the 2013-2014 school year, from March 28, 2014 to June 18, 2014. Accordingly, petitioner was ordered to pay the Board tuition of \$6,207.84, representing the cost of 54 days of ineligible attendance.

The Commissioner fully concurs with the ALJ's determination and recommendation that petitioner's failure to prosecute this matter necessitates its dismissal and the award of tuition to the Board. Accordingly, the recommended decision of the OAL is adopted as the final decision in this matter and petitioner is hereby directed to pay the Board \$6,207.84 in tuition for her child's ineligible attendance in West Orange public schools during the 2013-2014 school year.

IT IS SO ORDERED.¹

ACTING COMMISSIONER OF EDUCATION

Date of Decision: October 29, 2014

Date of Mailing: October 29, 2014

¹ 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).