

S.T. on behalf of minor child, K.T., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
TOWNSHIP OF HAMILTON, :
MERCER COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioner filed a residency appeal on behalf of her daughter, K.T., who was enrolled as a kindergarten student in the Hamilton Township School District in September 2006. The respondent sought reimbursement of tuition for the period of K.T.'s alleged ineligible attendance. Petitioner failed to appear for three hearing dates in August, September and November 2007; ex parte proofs were presented by the respondent at a hearing on November 21, 2007.

The ALJ found that: petitioner failed to prosecute her appeal, leaving no basis to consider overturning the residency determination of the respondent Board; respondent's proofs as to ineligibility and tuition rate were convincing and satisfy its burden of proof for the counterclaim. The ALJ concluded that petitioner must pay the respondent tuition in the amount of \$9,443 for the period of ineligible attendance.

The Commissioner concurred with the ALJ, adopted the Initial Decision as the final decision in this matter, ordered petitioner to compensate the Board for tuition owed, and dismissed the petition.

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.

February 7, 2008

OAL DKT. NO. EDU 4822-07
AGENCY DKT. NO. 168-6/07

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. In the Initial Decision, the Administrative Law Judge (ALJ) advises that the petitioner failed to appear at the November 20, 2007 hearing scheduled in this case – notwithstanding the two notices that had been sent to her at the address listed in her petition. Respondent did appear at the hearing and submitted proofs, *e.g.*, Exhibit R-7, supporting its claim for tuition.¹

Having received no explanation from the petitioner for her failure to appear at the hearing, the ALJ recommends dismissal of the petition and the granting of respondent's counterclaim for tuition. He has returned the file to the Commissioner pursuant to *N.J.A.C.* 1:1-14.4 – along with copies of the notifications that were sent to the parties by the OAL regarding the November 30, 2007 hearing date.²

¹ The Commissioner does not have a transcript of the November 20, 2007, *ex parte* hearing.

² On page 2 of the ALJ's decision, it states that notices of the hearings were sent to both the address in Hamilton which was set forth in S.T.'s petition and the address in Trenton which respondent contends is S.T.'s actual residence. Upon examination of the file, the Commissioner notes that there is no record of notices being sent to the Trenton address.

No exceptions have been filed by petitioner during the period of time allowed under *N.J.A.C.* 1:1-18.4(a).

The Commissioner consequently adopts the Initial Decision – recommending dismissal of the petition with prejudice and awarding respondent tuition in the amount of \$9,443.00, as requested in its counter-claim – as the final decision in this case.

IT IS SO ORDERED.³

COMMISSIONER OF EDUCATION

Date of Decision: February 7, 2008

Date of Mailing: February 7, 2008

³ This decision may be appealed to the State Board of Education pursuant to *N.J.S.A.* 18A:6-27 *et seq.* and *N.J.A.C.* 6A:4-1.1 *et seq.*