

#98-12 (OAL Decision: Not yet available online)

M.M.-C. on behalf of minor child, T.C., :
 PETITIONER, :
 V. : COMMISSIONER OF EDUCATION
 BOARD OF EDUCATION OF THE TOWNSHIP : DECISION
 OF UNION, UNION COUNTY, :
 RESPONDENT. :
 _____ :

SYNOPSIS

Petitioner filed a *pro se* residency appeal in October 2010, challenging the determination of the respondent Board to remove her niece, T.C., from Union Township schools. Petitioner contended that she was awaiting a court date for proceedings that would grant her custody of T.C., and that her niece was living with her in Union. T.C.’s mother, D.C.-R resides in Newark. T.C. attended Union High School from September 27 until December 1, 2010. The respondent Board claimed tuition for two months of ineligible enrollment in the amount of \$2,634. Subsequent to testimony presented on the first day of hearing, the Board agreed to settle the matter for a payment of \$1,000 from M.M.-C., who submitted a statement indicating that she promised to pay \$1,000, but would be unable to make any payment until she was “gainfully employed.” As of the date of the ALJ’s Initial Decision in this matter, no payment had been made to respondent from M.M.-C.

The ALJ found that: the petitioner bears the burden of proving domicile within the school district under *N.J.S.A. 18A:38-1*; in this case, petitioner disclosed during testimony that T.C. was living with M.M.-C. while D.C.-R traveled for work, but usually lived with her mother in Newark; the parties in this matter entered into a settlement agreement knowingly and voluntarily, which agreement was made absent a payment plan; as petitioner failed to pay the amount agreed to in the settlement, the Board requested a judgment in favor of the respondent for the full amount of tuition owed for the period of T.C.’s ineligible attendance, \$2,634. The ALJ concluded that there are no further facts in dispute and, accordingly, the Board is owed tuition reimbursement in the amount of \$2,634.

Upon a full and independent review, the Commissioner adopted the Initial Decision of the OAL as the final decision in this matter, ordered petitioner to pay respondent Board \$2,634, 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.

March 16, 2012

OAL DKT. NO. 12946-10
AGENCY DKT. NO. 619-10/10

M.M.-C. on behalf of minor child, T.C., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE TOWNSHIP : DECISION
OF UNION, UNION COUNTY, :
RESPONDENT. :
_____ :

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. No exceptions were filed by the parties.

Upon review, the Commissioner fully concurs with the Administrative Law Judge (ALJ) that there are no genuine issues of material fact to be resolved since the petitioner stipulated that she was not domiciled in the Township of Union, and – as the ALJ concluded – T.C., therefore, is not entitled to a free public education in Union school district, pursuant to *N.J.S.A. 18A:38-1*. Further, the Commissioner agrees that the petitioner failed to pay the sum of \$1,000.00 as a compromised settlement of the Board’s counterclaim for tuition, despite being afforded every reasonable opportunity to do so. Consequently, the Board’s motion for a Decision in Favor of Respondent and the Board’s counterclaim for the full tuition are appropriately granted.

Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter for the reasons articulated therein. Petitioner is hereby directed to compensate the Board of Education of the Township of Union in the amount of \$2,634.00 as total tuition for the period of

T.C.'s ineligible attendance in the district (September 27, 2010 to December 1, 2010, two months @ \$1,317.00 per month). The instant petition of appeal is hereby dismissed

IT IS SO ORDERED.¹

ACTING COMMISSIONER OF EDUCATION

Date of Decision: March 16, 2012

Date of Mailing: March 16, 2012

¹ Pursuant to *P.L. 2008, c. 36 (N.J.S.A. 18A:6-9.1)*, Commissioner decisions are appealable to the Appellate Division of the Superior Court.