

#411-08

BOARD OF EDUCATION OF THE :
BOROUGH OF RUTHERFORD, :
BERGEN COUNTY, :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
J.L. and F.L. on behalf of minor children :
A.L. and B.L., : DECISION
RESPONDENTS. :
_____ :

SYNOPSIS

Petitioning Board filed a complaint seeking reimbursement from respondents, J.L. and F.L., of the costs of tuition pertinent to the alleged period of ineligible attendance of their children, A.L. and B.L., during the 2005-2006, 2006-2007, and 2007-2008 school years. Respondents failed to answer the petition seeking payment of tuition.

The Commissioner directed respondents to submit an answer to the petition pursuant to *N.J.A.C. 6A:3-1.5*, and informed respondents that if no answer was submitted, each count of the petition would be deemed admitted and the matter could then be decided on a summary basis. As no answer was subsequently submitted, the Commissioner granted summary decision in favor of the Board, and ordered respondents to remit to the Board tuition in the amount of \$71,442 for the period of time in which their children were ineligible for a free education in the district's 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.

October 9, 2008

BOARD OF EDUCATION OF THE :
BOROUGH OF RUTHERFORD, :
BERGEN COUNTY, :

PETITIONER, :

COMMISSIONER OF EDUCATION

V. :

DECISION

J.L. and F.L. on behalf of minor children :
A.L. and B.L., :

RESPONDENTS. :
_____ :

For Petitioner, Fogarty and Hara

No appearance by or on behalf of J. L. and F.L.

This matter was opened before the Commissioner of Education on August 12, 2008 by way of a verified petition against respondents, the parents of two students who formerly attended school in petitioner's district. Petitioner alleged that the students had attended school in its district during the 2005-2006, 2006-2007 and 2007-2008 school years, without being domiciled in the district. Respondents had acknowledged, in correspondence to petitioner dated July 8, 2008, that financial circumstances had prevented them from completing construction of and residing at the Rutherford address set forth in the students' registration materials, and that the students had been living in the home of a relative in Weehawkin during the school years in question. Petitioner thus contends that A.L. and B.L. were ineligible for a free public education from September 2005 through June 2008, and that it is due tuition reimbursement for that period of time.

By notice dated August 12, 2008 – which was sent to the Rutherford address listed in the student’s files, the address in Weehawkin that respondents admit has been the children’s residence, and F.L.’s address in West New York – the Bureau of Controversies and Disputes (the Bureau) directed respondent, via regular mail, to file an answer to the petition. The notices to the Weehawkin and Rutherford addresses were returned, but the notice to the West New York address was not. On September 11, 2008, the Bureau directed respondents for a second time, via both certified and regular mail to the West New York address, to file an answer to the petition. The certified notice was returned on September 28, 2008, marked “unclaimed,” but the notice sent by regular mail was not returned, and no answer has been received from respondents.

The first communication from the Bureau clearly provided respondents with notice that, pursuant to *N.J.A.C. 6A:3-1.5*, individuals against whom a petition is filed shall have 20 days from receipt of the petition to file an answer. The second notice advised that if respondents did not file an answer within ten days of their receipt of same, each count of the petition would be deemed to have been admitted and the Commissioner might decide the matter on a summary basis. The Bureau has received neither an answer to the petition from the respondents, nor from any attorney purporting to represent respondents.

Petitioner’s verified petition and Exhibit M have identified \$71,442 as the amount of tuition due for both students for the three years during which they attended school in petitioner’s district. Respondents have neither challenged the amount nor their responsibility for same.

The Commissioner concludes that the allegations – which respondent has chosen not to deny – may be deemed admitted, pursuant to *N.J.A.C. 6A:3-1.5(e)*, and are sufficient to justify an order that respondent pay the tuition.

IT IS THEREFORE ORDERED that summary decision shall be granted to the petitioner, and that respondents shall pay tuition in the amount of \$71,442 for the period of time in which A.L. and B.L. were ineligible for free education in the Rutherford School District.*

COMMISSIONER OF EDUCATION

Date of Decision: October 9, 2008

Date of Mailing: October 10, 2008

* This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36*.