

#371-09

M.H., on behalf of minor child M.H., :

PETITIONER, :

V. : COMMISSIONER OF EDUCATION

BOARD OF EDUCATION OF THE TOWNSHIP : DECISION
OF ROBBINSVILLE, MERCER COUNTY, :

RESPONDENT. :

SYNOPSIS

Petitioner filed a *pro se* residency appeal on behalf of his nephew in June 2009. The respondent filed an answer and counterclaim for tuition. Petitioner failed to appear at the hearing on September 21, 2009 and provided no explanation for his nonappearance.

The ALJ found that petitioner failed to prosecute his appeal, leaving no basis to consider overturning the residency determination of the respondent Board, and respondent’s proofs as to tuition rate establish entitlement to tuition reimbursement from petitioner in the amount of \$ 3,494.82.

The Commissioner adopted the Initial Decision as the final decision in this matter and directed the petitioner to reimburse the Board for \$ 3,494.82 in tuition owed.

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.

November 10, 2009

OAL DKT. NO. EDU 8285-09
AGENCY DKT. NO. 122-6/09

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PETITIONER, :
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BOARD OF EDUCATION OF THE TOWNSHIP : DECISION
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RESPONDENT. :
_____ :

The Commissioner has reviewed the record of this residency matter and advisement of failure to appear transmitted by the Office of Administrative Law (OAL) pursuant to *N.J.A.C. 1:1-14.4*, along with a copy of the notification sent to the petitioner by the OAL on October 6, 2009, providing him thirteen days to submit an explanation for such nonappearance. Petitioner filed no explanation.

As a consequence of petitioner's failure to appear at the scheduled September 21, 2009 hearing to prosecute this residency matter, wherein he had the burden of establishing that his nephew, M.H., was entitled to a free public education in the Board's schools, the Commissioner grants the Board's counterclaim for tuition, in the amount of \$3,494.82 (M.H.'s ineligible attendance during the period March 30, 2009 through June 19, 2009, 53 school days, at a tuition rate of \$65.94 per day)¹.

Accordingly, the instant Petition of Appeal is dismissed for failure to prosecute. Petitioner is hereby directed to pay the Board of Education of the Township of Robbinsville \$3,494.82 for the period of his nephew's ineligible attendance in its schools.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: November 10, 2009

Date of Mailing: November 10, 2009

¹ Board's Answer to Petition in Residency Appeal and Counterclaim for Tuition at 3.

² 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)*.