

#233-15 (OAL Decision: Not yet available online)

S.L., ON BEHALF OF MINOR CHILDREN, :
J.L., J.L., AND O.L.

PETITIONER, :

V. : COMMISSIONER OF EDUCATION

BOARD OF EDUCATION OF THE : DECISION
TOWNSHIP OF UNION, UNION COUNTY, :

RESPONDENT. :
_____ :

SYNOPSIS

Petitioner challenged the residency determination of the respondent Board that her children are not entitled to a free public education in the Union Township schools. Respondent’s determination was based on a residency investigation conducted during the months of March, April, and May 2014, which concluded that S. L.’s children were not domiciled at the Union address provided to the school district, and likely were living at their father’s house in Irvington. Petitioner contended that she did reside with her children at the Union address, but that her work schedule required the children were frequently cared for by their grandmother at her home in Maplewood. The Board sought to have S.L.’s children removed from Union schools, and sought reimbursement of tuition for the period of their ineligible attendance.

The ALJ found, *inter alia*, that: petitioner bears the burden of proof by a preponderance of the evidence that she is domiciled within the school district; in this case, S.L. has failed to present any evidence that she was domiciled in Union during the 2013-2014 school year; petitioner was unable to provide any documents linking her name to the Union address provided to the district, and likewise failed to present testimonial evidence substantiating her alleged domicile on Tampa Terrace in Union. The ALJ concluded that S.L. failed to meet her burden to prove that her children were eligible for a free public education in Union schools, and assessed tuition costs – as set forth by the Board through March 4, 2015 – of \$64,499.40 for the 2013-2014 and 2014-2015 school years. The ALJ further ordered that petitioner will owe additional per-diem costs to be added beyond March 4, 2015 for continued ineligible attendance for the remainder of the 2014-2015 school year.

Upon review, the Commissioner concurred with the ALJ’s findings and conclusion that the petitioner’s minor children were not entitled to a free public education in Union schools for the time period in question. The Commissioner ordered petitioner to reimburse the Board for tuition in the amount of \$64,499.40 for the 2013-2014 and 2014-2015 school years. The Commissioner, however, noted that he was not provided with any information confirming that the minor children continued to attend Union schools beyond March 4, 2015, or setting forth the exact number of days of ineligible attendance by S.L.’s children. Therefore, no additional per diem tuition costs could be assessed to the petitioner. The petition was dismissed.

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.

July 8, 2015

OAL DKT. NO. EDU 10536-14
AGENCY DKT. NO. 188-7/14

S.L., ON BEHALF OF MINOR CHILDREN, :
J.L., J.L., AND O.L. :

PETITIONER, :

V. : COMMISSIONER OF EDUCATION

BOARD OF EDUCATION OF THE : DECISION
TOWNSHIP OF UNION, UNION COUNTY, :
:
RESPONDENT. :
_____ :

The record of this matter¹ and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The parties did not file exceptions.

Upon such review, the Commissioner concurs with the Administrative Law Judge's (ALJ) finding that petitioner failed to sustain her burden of establishing that she was a domiciliary of Union Township during the 2013-2014 school year. Additionally, the Commissioner concurs with the ALJ's conclusion that the minor children were, therefore, not entitled to a free public education in the District's schools during this time. Pursuant to *N.J.S.A. 18A:38-1b*, the Board is entitled to tuition reimbursement for the time period during which petitioner's minor children were ineligible to attend in the amount of \$64,499.40 for the 2013-2014 school year and the 2014-2015 school year (calculated through March 4, 2015) as detailed in the ALJ's comprehensive Initial Decision.

Although the ALJ recommended that petitioner be assessed additional per-diem tuition costs beyond March 4, 2015 for any future ineligible attendance by the minor children,

¹ The record included transcripts of the November 5, 2014 and November 25, 2014 proceedings which took place at the Office of Administrative Law.

the Commissioner was not provided with any information confirming that the minor children continued to attend school in the District beyond March 4, 2015 – or setting forth the exact number of days of ineligible attendance during the time period in question. Therefore, no additional per-diem tuitions costs can be assessed to petitioner.

Accordingly, the Initial Decision – as modified herein – is adopted as the final decision in this matter. Petitioner is assessed tuition in the amount of \$64,499.40 for her minor children’s ineligible attendance in the District, and is directed to compensate the Board in accordance with this decision. The instant petition of appeal is hereby dismissed.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: July 8, 2015

Date of Mailing: July 8, 2015

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).