

82-15R

H.F., on behalf of minor children, S.D. and A.D., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
BOROUGH OF WOODLAND PARK,
PASSAIC COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioner filed a *pro se* residency appeal on behalf of her children in August 2013. A hearing at the Office of Administrative Law (OAL) was scheduled for January 24, 2014, but petitioner failed to appear. The OAL returned the file to the Commissioner and the petition was dismissed with prejudice. However, the matter was remanded to the OAL for resolution of the counterclaim for tuition which had been filed by the respondent Board.

A second hearing was scheduled for January 12, 2015 to address the tuition issue. Prior to that date, respondent's counsel filed a letter withdrawing its counterclaim on behalf of the Board. The hearing was held nonetheless. As the within petition had already been dismissed in March 2014, the Commissioner acknowledged the respondent's withdrawal of its counterclaim, and deemed the matter fully resolved and removed from his consideration.

<p>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.</p>

March 2, 2015

OAL DKT. NO. 8027-14
(EDU 12626-13 ON REMAND)
AGENCY DKT. NO. 186-8/13

H.F., on behalf of minor children, S.D. and A.D., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
BOROUGH OF WOODLAND PARK,
PASSAIC COUNTY, :
RESPONDENT. :

The instant matter was originally opened in August 2013 by way of a petition challenging respondent's determination that petitioner's children were ineligible to attend school in its district. Respondent answered and counterclaimed for tuition. When petitioner failed to appear for the January 24, 2014 hearing in the Office of Administrative Law (OAL), the Administrative Law Judge (ALJ) transmitted the matter to the Commissioner of Education pursuant to *N.J.A.C. 1:1-14.4*. The Commissioner dismissed the petition but was constrained to remand the matter to the OAL for supplementation of the record regarding respondent's open counterclaim, and for disposition of same.

Prior to a January 12, 2015 hearing scheduled by the ALJ to address the counterclaim, respondent's counsel filed a letter withdrawing same on behalf of his client. Nonetheless, the ALJ elected not to cancel the hearing. The petitioner did not appear. Indeed, since her petition had been dismissed, and the counterclaim against her had been withdrawn,

there was little reason for her to do so. It is not clear from the record whether respondent appeared for the hearing.

On January 14, 2015, the OAL sent a notice to the parties concerning petitioner's failure to appear for the hearing and returned the file to the Commissioner. Neither party has filed any further pleadings. Having already dismissed the petition in this case on March 5, 2014, it remains only for the Commissioner to acknowledge respondent's withdrawal of its counterclaim. In so doing the Commissioner deems the matter fully resolved and removed from his consideration.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: March 2, 2015

Date of Mailing: March 6, 2015

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