

130-17 (OAL Decision: Not yet available online)

M.M., on behalf of minor child, J.R., :
PETITIONER, : COMMISSIONER OF EDUCATION
V. : DECISION
BOARD OF EDUCATION OF THE :
TOWNSHIP OF WEST ORANGE, :
ESSEX COUNTY, :
RESPONDENT. :

SYNOPSIS

On December 5, 2016, T.M. – the mother of J.R. – filed a *pro se* petition appealing the determination of the respondent Board that her son is not entitled to a free public education in West Orange schools. Petitioner contended that J.R. resided in West Orange with his stepfather, M.M., during the school year and resided with her in East Orange during the summer months. Subsequently, T.M. was informed that the appeal must be initiated by M.M., since it is his home in which J.R. was allegedly domiciled. On December 9, 2016, M.M. filed a *pro se* petition asserting that J.R. lives with him, but visits his mother at her East Orange residence. The respondent argued that the Board had not received any legal papers or court orders that appointed petitioner M.M. as J.R.’s legal guardian or parent/legal guardian of primary residence; accordingly, the Board requested that the petition be dismissed with prejudice. The Board did not seek tuition reimbursement from petitioner.

The ALJ found, *inter alia*, that: pursuant to *N.J.A.C.* 6A:22-3.2(a)(1), a student is a resident of a school district if his parent or guardian has a permanent home in the district; the domicile of an unemancipated child is that of his or her parent, custodian or guardian; in the instant case, M.M. contested the Board’s decision that J.R. was not properly domiciled in West Orange; based on the testimony and evidence, T.M. and J.R. lived with petitioner M.M. in West Orange when J.R. was registered for school in August 2015; M.M. and T.M. described their relationship as boyfriend and girlfriend when they resided together in West Orange, and believed that this was enough to establish M.M. as J.R.’s legal guardian; however, M.M. is neither a parent or legal guardian of the J.R., nor does he have any written agreement giving him permission to have J.R. reside with him in West Orange. The ALJ concluded that J.R. has not been a domiciliary of West Orange since July of 2016, and is therefore ineligible for continued attendance in the West Orange public schools.

Upon review, the Commissioner concurred with the ALJ’s findings and conclusions, and adopted the Initial Decision of the OAL as the final decision in this matter.

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.
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May 11, 2017

OAL DKT. NO. EDU 4-2017
AGENCY DKT. NO. 313-12/16

M.M., on behalf of minor child, J.R., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
TOWNSHIP OF WEST ORANGE,
ESSEX COUNTY, :
RESPONDENT. :

The record of this matter and the Initial Decision of the Office of Administrative Law have been reviewed. The parties did not file exceptions to the Initial Decision.

Upon such review, the Commissioner concurs with the Administrative Law Judge (ALJ) – for the reasons stated in the Initial Decision – that J.R. is no longer domiciled in the district and that the Board’s decision denying J.R. the ability to attend school in the district was not arbitrary, capricious or unreasonable.

Accordingly, the recommended decision of the ALJ is adopted for the reasons expressed therein.

IT IS SO ORDERED.*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: May 11, 2017

Date of Mailing: May 11, 2017

* 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*).