

256-17 (OAL Decision: Not yet available online)

R.V., on behalf of minor children, D.V. and S.T., :  
 PETITIONER, :  
 V. : COMMISSIONER OF EDUCATION  
 BOARD OF EDUCATION OF THE CITY OF : DECISION  
 CLIFTON, PASSAIC COUNTY, :  
 RESPONDENT. :  
 \_\_\_\_\_ :

SYNOPSIS

Petitioner filed a *pro se* petition appealing the determination of the respondent Board that his children, D.V. and S.T., were not domiciled in the City of Clifton, and therefore not entitled to a free public education in the Clifton school district. Petitioner enrolled his two children in Clifton in September 2016, using an address on Rowland Avenue and a sworn statement that he resided there, as he is not the homeowner at the address. The Board contended that petitioner had been unable to provide required documentation of his residency at the Rowland Avenue house, and an investigation failed to find the family living at that address. The Board sought tuition reimbursement for the period of D.V. and S.T.’s ineligible attendance.

The ALJ found, *inter alia*, that: the respondent Board’s residency inspector presented credible testimony in support of the Board’s claim for tuition; the results of the investigation supported the finding that petitioner and his children are not domiciled in the Clifton school district, and the house at the address used for enrollment has been in foreclosure since September 2016; petitioner was unable to provide even one document to prove his residency on Rowland Avenue in Clifton; and where the evidence does not support the claims of the resident, the Commissioner of Education is authorized to assess tuition pursuant *N.J.A.C.* 6A:22-6.2(a). The ALJ concluded that petitioner was not a domiciliary in Clifton for the period from September 4, 2016 to June 19, 2017, and accordingly – pursuant to *N.J.S.A.* 18A:38-1(b) – the respondent Board is entitled to reimbursement from petitioner in the total amount of \$ 21,232.30 for the period of his children’s ineligible attendance.

Upon review, the Commissioner concurred with the ALJ’s finding that petitioner failed to sustain his burden of establishing that he was domiciled in Clifton during the 2016-2017 school year. Accordingly, the Initial Decision of the OAL was adopted as the final decision in this matter, and petitioner was directed to reimburse the Board in the amount of \$ 21,232.30. The petition was dismissed with prejudice.

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.

August 31, 2017

OAL DKT. NO. EDU 06142-17  
AGENCY DKT. NO. 49-3/17

R.V., on behalf of minor children, D.V. and S.T., :  
PETITIONER, :  
V. : COMMISSIONER OF EDUCATION  
BOARD OF EDUCATION OF THE CITY OF : DECISION  
CLIFTON, PASSAIC COUNTY, :  
RESPONDENT. :  
\_\_\_\_\_ :

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed.<sup>1</sup> 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 his burden of establishing that he was a domiciliary of Clifton during the 2016-2017 school year. The Commissioner further concurs with the ALJ's conclusion that D.V. and S.T. were, therefore, not entitled to a free public education in the District's schools during this time.

Pursuant to *N.J.S.A.* 18A:38-1(b), the Board is entitled to tuition reimbursement in the amount of \$21,232.30 (\$10,679.68 at \$65.12 per day for 164 days for D.V., and \$10,552.62 at \$63.57 per day for 166 days for S.T.) for the time period between September 6, 2016 and June 19, 2017, during which time D.V. and S.T. were ineligible to attend school in the District, as detailed in the ALJ's Initial Decision.

---

<sup>1</sup> The Commissioner was not provided with a transcript of the July 17, 2017 hearing at the OAL.

Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter. Petitioner is directed to reimburse the Board in the total amount of \$21,232.30 for tuition costs incurred during the time period that D.V. and S.T. were ineligible to attend school in Clifton. The petition of appeal is hereby dismissed with prejudice.

IT IS SO ORDERED.<sup>2</sup>

COMMISSIONER OF EDUCATION

Date of Decision: August 31, 2017

Date of Mailing: August 31, 2017

---

<sup>2</sup> 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).