

This is a residency case. Mrs. D. contends that she is living with her children in Cranston. She, therefore, contends that her children have the right to attend the public schools of Cranston. The Cranston School Committee contends that in fact Mrs. D is living with her children in Johnston, Rhode Island.

Findings of Fact

The Cranston School Committee employs Joseph V. Fortuna as an attendance officer. Mr. Fortuna, on numerous occasions in the early morning, observed the children concerned leave the residence located in Johnston. He has also observed Mrs. D at the Johnston residence and he has observed vehicles registered to the D's parked at the Johnston residence. We find Mr. Fortuna's testimony to be credible. We, therefore, find that Mrs. D is living with her children in Johnston.

We also find from Mr. Fortuna's testimony that it is likely that Mr. D the man from whom Mrs. D is divorced, is also apparently living at the Johnston address.

Conclusions of Law

1. The statutory provision which is applicable to this case is that portion of G.L. 16-64-1 which reads as follows:

16-64-1. Residency of children for school purposes. - Except as otherwise provided by law or by agreement a child shall be enrolled in the school system of the town wherein he or she resides. A child shall be deemed to be a resident of the town where his or her parents reside.

2. Even if we were to find that Mr. D is living in Cranston this would not change the case. The law at G.L.16-64-1 also provides that:

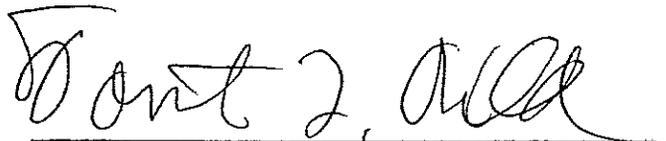
If the child's parents reside in different towns the child shall be deemed to be a resident of the town in which the parent having actual custody of the child resides. (Emphasis added).

We note that the Legislature used the term "actual custody" because it realized that "legal" custody is a frequently disputed issue. The Legislature also realized that in many circumstances divorced parents will reach agreements about where the child will live without returning to Court to get a custody decree changed. To avoid getting school districts entangled in divorce proceedings or in the construction of divorce decrees the General Assembly simply provided that the student was to go to school in the town where he or she was living with one of his parents.

Conclusion

The students are residents of the town of Johnston for school purposes. To avoid disrupting the education of these students, Cranston may wish to delay, until the end of the school year, the transfer of these students to Johnston.

March 7, 1989



Forrest L. Avila, Esq.
Hearing Officer

Approved:



J. Troy Earhart
Commissioner of Education