

STATE OF RHODE ISLAND

COMMISSIONER OF EDUCATION

AND

PROVIDENCE PLANTATIONS

THOMAS E. M

V.

JOHNSTON SCHOOL COMMITTEE

DECISION AND INTERIM ORDER

Held: Appellant's child is a resident of Johnston for school enrollment purposes based on the fact that he resides in Johnston with his father.

Travel

This case involves a residency dispute. The matter was appealed to Commissioner Peter McWalters on April 1, 1994. The undersigned was appointed as the Commissioner's designee under R.I.G.L. 16-64-6 to hear the matter and determine the issue of residency.

A hearing was held on April 15, 1994. In attendance were the appellant, and counsel for the school committees of the town of Johnston and cities of Providence, and North Providence, all districts identified as "parties in interest" and thus entitled to participate in the hearing.

Jurisdiction to hear the matter arises under R.I.G.L. 16-64-6 and R.I.G.L. 16-39-1.

Findings of Relevant Facts

- Thomas E. M presently resides in the town of Johnston, residing at Vermont Street, a home owned by his mother. He has lived there for approximately five (5) weeks. pp. 6-8, 10-11, 12
- Residing with him there are his son Thomas Jr., his mother and his sister. Tr. pp.8, 25, 29.
- Prior to living at the Vermont Street address, Mr. M shared an apartment with his brother on Sunset Avenue, North Providence and prior to that he lived for a short time in the city of Providence. Tr. pp. 5, 25-26.
- Thomas Jr. attended school in Johnston until he and his father moved to North Providence at which time his father enrolled him in the North Providence school system. Tr. pp. 18-19. Johnston Ex. 2.
- Upon his return to Johnston to his mother's home approximately five (5) weeks ago, Mr. M attempted to re-enroll his son in the Johnston school system, but he was not successful in doing so. pp. 6,10.

- Mr. M and his son occasionally stay overnight at the home of Mr. M's girlfriend who lives in the town of North Providence. Tr. Pp. 13-14,17.
- Since he was refused re-admission to Johnston public schools three (3) weeks ago, Thomas has not been attending school at all. Tr. p.9. Mr. M testified that his son was not happy with his school in North Providence. Tr. p. 31-32.

Decision

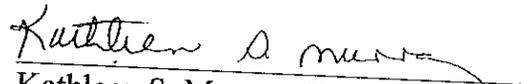
Our residency statute, R.I.G.L. 16-64-1 states that:

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. 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.

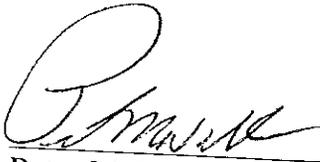
Facts established at the hearing indicate that for the last five (5) weeks this child has been living with his custodial parent in the town of Johnston. Father and son share a bedroom in a home located in Johnston and owned by the appellant's mother. While the Johnston school officials argue that these living arrangements are a "ruse" designed to create an entitlement for the child to reenroll in Johnston public schools, the facts are such that residency for school purposes has been established in the town of Johnston. Neither the appellant, nor his son, live in North Providence according to un rebutted testimony received at the hearing. The school administrators of the town of Johnston had good reason to question the legitimacy of the appellant's assertion to them that he had returned to Johnston and had reestablished his residency there with his son. The father's several changes of residence over the course of the winter, coupled with the fact that the child, during

at least part of the time, was left to reside with his aunt and grandmother in Johnston solely for purposes of attending school, raised legitimate questions as to Thomas Jr.'s present residency for school purposes. However, the present situation - both father and son residing in Johnston-establishes Thomas' entitlement to re-enroll in Johnston public schools. The fact that he was previously enrolled in North Providence schools creates no obligation on the part of that school system to continue his attendance there.

The appeal is sustained. Johnston should re-enroll Thomas forthwith. The decision is entered as an interim and final order under our interim order authority set forth in R.I.G.L. 16-64-6.


Kathleen S. Murray, Hearing Officer

Approved:


Peter McWalters, Commissioner

April 20, 1994
Date