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The following Decision is distributed for your information. This Decision has been made in consideration of the specific facts of this case. This Decision is not to be interpreted as establishing any new mandatory policy or procedure otherwise officially promulgated.

STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW 16901-16 C.C.

AGENCY DKT. NO. GA516330 (HUNTERDON COUNTY BD. OF SOC. SVCS.)

Petitioner appeals from Respondent Agency's termination of her Emergency Assistance ("EA") benefits, and the imposition of a six-month period of ineligibility for EA benefits. The Agency terminated Petitioner's EA benefits, and imposed a six-month EA ineligibility penalty, because it determined that she abandoned affordable housing, thereby causing her own homelessness. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On March 4, 2017, the Honorable Elia A. Pelios, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On May 4, 2017, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on May 8, 2017.

A Reply to the Agency's Exceptions was filed by Legal Services, on behalf of Petitioner, on May 11, 2017.

As the Director of the Division of Family Development ("DFD"), Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I ADOPT the ALJ's Initial Decision and REVERSE the Agency's determination.

Here, Petitioner's landlord submitted a letter to the Agency which outlined that numerous repairs were needed to Petitioner's unit, and that because the water would be required to be turned off, Petitioner would be required to vacate the unit. See Initial Decision at 2; see also Exhibit R-1. As a result, and because Petitioner

was a month-to-month tenant, her landlord issued an eviction notice on August 13, 2016, stating that the lease would be terminated effective September 29, 2016. See Initial Decision at 2; see also Exhibit P-1 at 3. In order to avoid a formal eviction proceeding, Petitioner signed a Consent Agreement which stipulated that Petitioner would vacate the premises on November 3, 2016, and no judgment of possession would be entered. See Initial Decision at 2; see also Exhibit P-1 at 1-2, and Exhibit R-2. Consequently, the Agency issued an Adverse Action Notice to Petitioner terminating her EA benefits for abandoning affordable housing, and causing her own homelessness. See Initial Decision at 3; see also Exhibit R-4, and N.J.A.C. 10:90-6.1(c)(3).

At issue in this matter is the assignment of fault for the damages that lead to the eviction notice and subsequently the Consent Agreement. Petitioner and multiple witnesses testified that the damage outlined by the landlord had already occurred prior to her possession of the unit. See Initial Decision at 3-4. The Agency asserted, through conclusions drawn from the landlord's letter, that Petitioner was the cause of the damage which resulted in her eviction, and therefore, she caused her own homelessness. *Id.* at 3; see also Exhibit R-1, R-4; see also N.J.A.C. 10:90-6.1(c)(iv), (vi). However, the ALJ concluded that under the Residuum Rule, N.J.A.C. 1:1-15.5(c), no legally competent evidence was provided by the Agency to support the hearsay allegations presented in the landlord's letter, and therefore, no weight shall be given to the assertions contained therein. See Initial Decision at 5; see also Exhibit R-1. Moreover, the ALJ found that Petitioner had a month-to-month lease which allowed the landlord to evict her without cause, and therefore, Petitioner's execution of a consent decree, in settlement of eviction, was essentially acceding to a foregone conclusion, rather than a voluntary abandonment of affordable housing. See Initial Decision at 6; see also N.J.S.A. 2A:18-61.1.

Based on the foregoing, the ALJ concluded that the Agency failed to demonstrate by a preponderance of the evidence that Petitioner abandoned affordable housing, and thereby, caused her own homelessness. See Initial Decision at 6-7. Therefore, the ALJ further concluded that the Agency's termination of Petitioner's EA benefits, and the imposition of a six-month EA ineligibility penalty, were improper and must be reversed. *Ibid.*; see also Exhibit R-4, and N.J.A.C. 10:90-6.1(c)(3). I agree.

By way of comment, I have reviewed the Exceptions submitted by the Agency and they do not alter my decision in this matter.

By way of further comment, counsel for Petitioner is reminded that replies to Exceptions or Cross Exceptions are not permitted in DFD hearings. See N.J.A.C. 1:10-18.2.

Cross Exceptions are not permitted in DFD hearings. See N.J.A.C. 1:10-18.2.

JUN 09 2017

Signed Copy on File
at DFD, BARA

Natasha Johnson
Director