



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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NATASHA JOHNSON
Director

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 13287-18 L.W.

AGENCY DKT. NO. C242692009 (HUDSON COUNTY DEPT OF FAM SVCS)

Petitioner appeals from the Respondent Agency's termination of Emergency Assistance ("EA") benefits. The Agency terminated Petitioner's EA benefits contending that she failed to comply with her EA service plan ("SP"), and that she caused her own homelessness. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On September 18, 2018, the Honorable Gail M. Cookson, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. Also on September 18, 2018, the ALJ issued an Initial Decision, reversing the Agency's determination.

Exceptions to the Initial Decision were filed by the Agency on September 20, 2018.

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

Here, the Agency terminated Petitioner's EA benefits contending that she failed to comply with her SP by failing to timely pay her portion of the monthly rent, and that she was evicted from her apartment for causing a disturbance. See Initial Decision at 1, 3; see also N.J.A.C. 10:90-6.1(c)(3)(vi), -6.6(a). The ALJ found, however, that Petitioner waited to pay her monthly portion of the rent until the landlord had taken care of certain fire code violations, and therefore, that she had good cause for failing to pay her rent timely. See Initial Decision at 3; see also Exhibits P-1, P-2, and P-3. The ALJ also found Petitioner credible when she testified that she was not the source of the disturbance in her apartment building, and that she was evicted from her apartment as retaliation for reporting fire code violations. See Initial Decision at 2-3; see also Exhibits P-4, P-5. Moreover, the record is devoid of any competent evidence provided by the Agency to prove that Petitioner had caused her own homelessness. See Exhibit R-2; see also N.J.A.C. 1:1-15.5. As such, the ALJ found that Petitioner had not caused her own homelessness. See Initial Decision at 3. Based on the foregoing, the ALJ concluded that the Agency's termination of Petitioner's EA benefits was improper and must be reversed. See Initial Decision at 4. I agree.

By way of comment, for the benefit of the Agency, regulatory authority dictates that it is the Agency who has the burden to prove a violation of the WFNJ regulations, supporting the Agency's adverse action, that the party with the burden presents its evidence first, and that the evidence presented must be legally competent, not merely based on hearsay. See N.J.A.C. 1:1-2.1, -14.7(c), -15.5; see also Exhibit R-2. The Agency is also advised that it is the ALJ who shall determine the admissibility of evidence, that only evidence admitted by the ALJ and included in the record shall be considered, and that the Agency head may not reject the ALJ's finding of lay witness credibility unless such finding is unsupported by competent, credible evidence in the record. See N.J.A.C. 1:1-14.6(i), -15.1(a), and -18.6(c).



By way of further comment, I have reviewed the Agency's Exceptions, and I find that the arguments made therein do not alter my decision in this matter. Also, the Agency is reminded that a copy of submitted Exceptions shall also be forwarded to all parties in a case, as well as to the ALJ who presided over the plenary hearing. See N.J.A.C. 1:1-18.4(c).

Accordingly, the Initial Decision is hereby ADOPTED, and the Agency's determination is REVERSED.

Officially approved final version.

SEP 26 2018

Natasha Johnson

Director

