



State of New Jersey

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NATASHA JOHNSON
Assistant Commissioner

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 08879-20 E.T.

AGENCY DKT. NO. C149441003 (BURLINGTON COUNTY BD. OF SOC. SVCS)

Petitioner appeals from the Respondent Agency's termination of Emergency Assistance ("EA") benefits, and the imposition of a six-month period of ineligibility for EA benefits. The Agency terminated Petitioner's EA benefits, contending that he violated shelter rules, which resulted in his removal from said shelter placement. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On September 29, 2020, the Honorable Jeffrey R. Wilson, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents.

On September 30, 2020, the ALJ issued an Initial Decision, reversing the Agency's determination. Here, the record reflects that, by notice dated June 16, 2020, the Agency terminated Petitioner's EA benefits, and imposed a six-month EA ineligibility penalty, contending that Petitioner violated shelter rules, by possessing a weapon, and by engaging in disruptive and threatening behavior. See Initial Decision at 2-3; see also R-1 at Exhibits 3, 8, and N.J.A.C. 10:90-6.3(c)(1), (3). Said termination was based on an email sent from a shelter employee to the Agency, claiming that certain shelter rules had allegedly been violated by Petitioner, that Petitioner had been removed from the shelter by the police, and thereby requesting that Petitioner be placed at another shelter. See Initial Decision at 2, 4; see also R-1 at Exhibit 7. However, no one from the shelter, nor anyone from the Agency with direct knowledge of the incident, was present at the hearing to attest to the truth of those claims. See Initial Decision at 3-5. Notably, no police report was submitted into the record. *Id.* at 2. Petitioner disputed the violations presented in the aforementioned email communication. *Id.* at 3. The ALJ found both the Agency's and Petitioner's testimonies credible. *Id.* at 3-4. The ALJ also found that the shelter email communication, and the Agency's testimony, were hearsay within the dictates of the Residuum Rule, not supported by credible evidence in the record. See Initial Decision at 4-5; see also N.J.A.C. 1:1-15.5. As such, the ALJ concluded that the Agency had failed to meet its burden of proof to show, by a preponderance of the evidence, that Petitioner had failed to comply with shelter rules. See Initial Decision at 5-6. Based on the foregoing, the ALJ 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. *Id.* at 6; see also R-1 at Exhibit 8. I agree.



No Exceptions to the Initial Decision were received.

As Assistant Commissioner, Division of Family Development, Department of Human Services, I have considered the ALJ's Initial Decision, and following an independent review of the record, I concur with the ALJ's final conclusion in this matter and hereby ADOPT the Findings of Fact and Conclusion of Law.

By way of comment, Petitioner is advised that any future shelter rule violations, without good cause, may result in a termination of his EA benefits, and ineligibility for same, for a period of six months. See N.J.A.C. 10:90-6.3(c), (e).

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

Officially approved final version.

OCT 13 2020

Natasha Johnson
Assistant Commissioner

