



State of New Jersey

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DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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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 00714-20 M.D.

AGENCY DKT. NO. C276909009 (HUDSON COUNTY DEPT OF FAM SVCS)

Petitioner appeals from the Respondent Agency's denial of Emergency Assistance ("EA") benefits. The Agency denied Petitioner's EA benefits, contending that she voluntarily quit employment, without good cause, and that she moved into an unaffordable apartment. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On January 17, 2020, the Honorable Elissa Mizzone Testa, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On January 17, 2020, the ALJ issued an Initial Decision, reversing the Agency's determination.

No Exceptions to the Initial Decision were received.

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 hereby ADOPT the ALJ's Initial Decision, and REVERSE the Agency's determination, based on the discussion below.

N.J.A.C. 10:90-6.1(c)(3) states, in pertinent part, that EA benefits shall not be provided for a period of six months "when an actual or imminent state of homelessness exists as a direct result of the voluntary cessation of employment by the adult member without good cause." This includes situations in which an applicant has been discharged from employment due to an action, or inaction, on his or her part, in violation of the employer's written rules or policies, or lawful job related instructions. See N.J.A.C. 10:90-1.15.

Here, the Agency denied Petitioner EA benefits, contending that she was terminated from her employment because she failed to comply with her employer's four-hour call out attendance policy, without good cause, and because she moved into an unaffordable apartment. See Initial Decision at 2; see also "Notification Form" dated January 9, 2020, "FJC Security Services" letter dated December 27, 2019, "Disciplinary Notice" dated December 27, 2019, and N.J.A.C. 10:90-6.1(c)(3). However, the ALJ found Petitioner credible when she testified that she had missed her ferry boat to work, and had called her employer 20 minutes later to advise them that she would not be able to come into work that day, but nevertheless was terminated because she had not called her employer in accordance with their four-hour call out policy. See Initial Decision at 3. Accordingly, the ALJ found that Petitioner had good



cause for failing to comply with her employer's attendance policy, and as such, found that Petitioner had not voluntarily quit employment. Ibid.; see also N.J.A.C. 10:90-6.1(c)(3). Further, the ALJ found that Petitioner was employed when she moved into her apartment, and although her apartment may not currently be affordable, it was affordable at the time she moved in, and as such, the Agency's denial of EA benefits to Petitioner on that basis is unwarranted. See Initial Decision at 3-4; see also "Application for Emergency Assistance," "Apartment Lease," and "PSEG" bill. Of note, Petitioner's monthly rent is within the Fair Market Rent for both a one-bedroom or two-bedroom apartment in Hudson County. See Initial Decision at 2; see also "Apartment Lease," "PSEG" bill, and N.J.A.C. 10:90-6.3(a)(7)(i)(1) and DFD Informational Transmittal No. 19-28. Based on the foregoing, the ALJ concluded that Petitioner is eligible for EA benefits, reversed the Agency's denial of EA benefits to Petitioner, and ordered the Agency to provide Petitioner with EA benefits, including the three months of past due rent owed by Petitioner to her landlord. See Initial Decision at 4; see also "Consent to Enter Judgment," "Warrant of Removal," and N.J.A.C. 10:90-6.3(a)(5). I agree.

Accordingly, the Initial Decision is hereby ADOPTED, and the Agency's action is REVERSED, as outlined above.

JAN 24 2020

Officially approved final version.

Natasha Johnson
Assistant Commissioner

