



State of New Jersey

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DIVISION OF FAMILY DEVELOPMENT

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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 00746-21 W.G.

AGENCY DKT. NO. C199684020 (UNION COUNTY DIVISION OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's termination of Emergency Assistance ("EA") benefits. The Agency terminated Petitioner's EA benefits, contending that her homelessness was within her control. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. A hearing was initially scheduled for January 27, 2021, but was adjourned at the request of Petitioner. Beginning on February 1, 2021, and continued on February 4, 2021, the Honorable John P. Scollo, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents.

On February 5, 2021, the ALJ issued an Initial Decision, reversing the Agency's determination. Here, the record reflects that the Agency terminated Petitioner's EA benefits contending that "[h]omelessness was within [her] control." See Initial Decision at 2-3; see also Exhibit R-4, and N.J.A.C. 10:90-6.1(c)(1)(ii). However, the ALJ found that the Agency's termination was actually based on assertions of trespassing and theft, made in the hotel manager's email, wherein it was alleged that Petitioner had violated hotel rules by entering into a hotel room that was not her own, and for stealing a telephone. See Initial Decision at 2-3; see also Exhibits R-4, R-5, and N.J.A.C. 10:90-6.3(c)(3). Petitioner denied the hotel manager's allegations of trespass and theft. See Initial Decision at 3. The ALJ concluded that the hotel manager's email was hearsay within the dictates of the Residuum Rule, unsupported by competent evidence in the record, and as such, the ALJ concluded that the Agency failed to meet its burden of proof to show, by a preponderance of the evidence, that Petitioner actually committed the criminal acts which resulted in her termination from the shelter. *Id.* at 3-4; see also Exhibit R-4, and N.J.A.C. 1:1-15.5. Further, the ALJ also concluded that the Agency had not provided Petitioner with adequate notice regarding the reason for its termination, as the basis was overbroad and the regulatory citation misplaced. See Initial Decision at 4, 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. See Initial Decision at 4-6; see also Exhibit R-3, and N.J.A.C. 1:1-15.5. 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 further comment, Petitioner is advised that any future shelter rule violations may result in the termination of EA benefits, and the imposition of a six-month EA ineligibility penalty. 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, as outlined above.



Officially approved final version.

FEB 11 2021

Natasha Johnson
Assistant Commissioner

