



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 **06850-23 A.J.**

AGENCY DKT. NO. **C141315020 (UNION COUNTY DIVISION OF SOC. SVCS.)**

Petitioner appeals from the Respondent Agency's termination of Emergency Assistance ("EA") benefits. The transmittal in this matter reflects Petitioner's assertion that a verbal settlement, reached at the time of a prior scheduled fair hearing on June 29, 2023, with respect to the EA termination, before the Honorable Elissa Testa, Administrative Law Judge, has failed. The matter was transmitted to the Office of Administrative Law ("OAL") for a hearing on an emergent basis.

A telephonic plenary hearing was originally scheduled for August 2, 2023. Petitioner did not call in at the scheduled time, and the matter was marked as a failure to appear. See Initial Decision at 2. Later that morning, Petitioner contacted OAL, maintaining that he had tried to call in to the hearing, without success. *Ibid.* The matter was then rescheduled for the next day, and Petitioner was given the opportunity to go to the Agency, and participate in fair hearing on a telephone in a conference room. *Ibid.* On August 3, 2023, the Honorable Evelyn J. Marose, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony and admitted documents. During the hearing, the Agency asserted that Petitioner had not provided proof that he had paid his overdue rent, and further, that he had been involuntarily terminated from several past placements. *Ibid.* As a result, the record was held open until August 4, 2023, for Petitioner to provide his proof of payment, as well as for the Agency to provide additional documentation, and the record then closed.

The ALJ in this matter found that a verbal settlement had been reached on June 29, 2023, in OAL Docket number 05638-23, wherein it was agreed that if Petitioner provided proof of his payment of his portion of EA benefits, the Agency would find him immediately eligible for EA benefits. *Id.* at 3. Petitioner maintained that he paid his portion of his overdue rent and had brought a copy of the proof of payment to the Agency on July 14, 2023. *Ibid.* Petitioner further asserts that, upon his proof of payment of his overdue rent, the Agency did not provide him with EA benefits, and on that basis he seeks compensatory damages. *Ibid.* The transmittal in this matter reflects that Petitioner contacted the Bureau of Administrative Review and Appeals ("BARA") to request a fair hearing on the alleged failed settlement on July 28, 2023. The ALJ in this matter further noted that, after Petitioner's unsuccessful attempt to call in for the August 2, 2023, fair hearing, Petitioner was advised of the rescheduled hearing



date of August 3, 2023, and was further advised that the Agency had a placement voucher for him, which he could pick up at the Agency offices. Ibid.; see also Exhibit R-1.

The Initial Decision then states that Petitioner then went to the Agency, but refused the only available placement at the Salvation Army, contending that it was unacceptable. See Initial Decision at 4. Petitioner maintains that while he did not accept the placement, he nonetheless went to the Salvation Army to investigate the placement option. Ibid. Upon his investigation, Petitioner was advised by the facility staff of the type of placement, which he claims would have been acceptable to him, and that, as such, the Agency had seemingly misrepresented said placement to him, thereby causing him to refuse the placement. Ibid. The Agency maintained that it had relied upon the information that had been provided to it by the facility itself, and that it had no knowledge of what statements may have possibly been made directly to Petitioner. Ibid. While this series of occurrences are outlined in the Initial Decision, I find that they have no bearing as to the issue for which this matter was transmitted to the OAL for a hearing.

The salient facts in this matter are whether or not Petitioner did, in fact, pay his overdue portion of his rent, in accordance with applicable regulatory authority, and that proof of said payment had been provided to the Agency. Ibid.; see also N.J.A.C. 10:90-6.5(a) (stating that all EA recipients, including Supplemental Security Income (“SSI”) benefits recipients, are required to pay 30% of their total household income towards their EA placement). The ALJ found that Petitioner was to provide a copy of said proof, prior to leaving the Agency offices on August 3, 2023, and that the Agency would then provide Petitioner with a 30-day EA voucher as of that date. See Initial Decision at 4. Petitioner was then placed at the Newark YMCA. Ibid.; see also Exhibit R-2. Based on this placement, the ALJ concluded that a contested issue no longer existed, and that Petitioner’s appeal was now moot. See Initial Decision at 5. Based on the record presented in this case before the ALJ, I agree.

Exceptions to the Initial Decision were filed by Petitioner on August 10, 2023.

As Assistant Commissioner, 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 in this matter. Furthermore, as this matter has been deemed moot, I find that no contest case remains, and therefore, I hereby dismiss this matter.

By way of comment, I have reviewed Petitioner’s Exceptions, and I find that they do not alter my decision in this matter. Moreover, Petitioner included a document with his Exceptions which was not introduced before the ALJ at the fair hearing. Pursuant to N.J.A.C. 1:1-18.4(c), I am not permitted to consider documents as evidence that were not submitted at the hearing for consideration by the ALJ, more specifically, an adverse action notice, dated August 3, 2023, which is not the basis of the present matter. Petitioner is, however, without prejudice to seek a new fair hearing with respect to that adverse action notice.

By way of further comment, this office does not have the authority to consider or grant such compensatory damages, as sought by Petitioner, through an administrative proceeding. See N.J.A.C. 10:90-9.16. Should Petitioner wish to pursue such damages, Petitioner should consult Legal Services with respect to the appropriate forum in which to pursue same.

Also by way of comment, I note that proof of two prior evictions, one from 2018, and the other from August, 2021, placed into the record in this case, are too remote in time for consideration of Petitioner’s EA benefits eligibility. See Exhibits R-4 and R-5.

Accordingly, as Petitioner was given an EA voucher, Petitioner’s appeal has been deemed moot, and as no contested case now exists, Petitioner’s appeal is hereby DISMISSED.



Officially approved final version.

August 15, 2023

Natasha Johnson

Assistant Commissioner

