



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

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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 210-16 N.A.

AGENCY DKT. NO. C210934 (PASSAIC COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's denial of her application for Emergency Assistance ("EA") benefits in the form of Temporary Rental Assistance ("TRA"). The Agency denied Petitioner EA/TRA because she caused her own homelessness by voluntarily moving into an unaffordable apartment. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On January 8, 2016, the Honorable Jeffrey A. Gerson, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On January 11, 2016, the ALJ issued his Initial Decision reversing the Agency determination.

Exceptions to the Initial Decision were filed by the Agency on January 14, 2016.

As the Director of the Division of Family Development, Department of Human Services, I have considered the record in this matter and the ALJ's Initial Decision and, having made an independent evaluation of the record, I hereby REJECT the Initial Decision and AFFIRM the Agency determination.

In order to be EA eligible, the assistance unit must be in a state of homelessness or imminent homelessness due to circumstances beyond their control or the absence of a realistic capacity to plan in advance for substitute housing. See N.J.A.C. 10:90-6.1(c). EA shall not be provided for a period of six months when an applicant "has caused his or her own homelessness, without good cause." See N.J.A.C. 10:90-6.1(c)(3).

Here, Petitioner and her six children resided for approximately three years in an apartment with a monthly rent of \$1,100.00. See Initial Decision at 2. Although she was divorced in 2008, Petitioner's ex-husband paid the rent directly to the landlord on her behalf throughout the entire tenancy. Ibid. In August 2015, Petitioner voluntarily moved from that apartment to another apartment with a rent of \$1,400.00. Ibid. Petitioner testified that she moved because, in her opinion, the apartment was uninhabitable because of a bedbug infestation. Ibid. Petitioner claims that she "attempted to have the landlord correct the situation," but the infestation continued. Ibid. However, Petitioner presented no documentation to corroborate her testimony that she informed her landlord of a bedbug situation, nor did she instruct her ex-husband to withhold rental payments due to the alleged uninhabitable conditions in the apartment. Ibid.

Petitioner's ex-husband paid the rent of \$1,400.00 on Petitioner's new apartment for August 2015, and ceased making rental payments thereafter. Ibid. As a result, on November 9, 2015, Petitioner's landlord filed an eviction action against her for non-payment of rent, indicating that rent was not paid for the months of September, October, and November 2015, for a total due of \$4,200.00. See Initial Decision at 2; see also Tenancy Summons and Complaint filed November 9, 2015. To date, the rent on Petitioner's apartment remains unpaid from September 2015, through January 2016. See Initial Decision at 2.

The ALJ noted that, on July 14, 2015, Petitioner filed a Temporary Restraining Order ("TRO") against her ex-husband, alleging that he committed domestic violence against her on July 5, 2015, and again on July 13, 2015. See Initial Decision at 3; see also New Jersey Domestic Violence Civil Complaint and Temporary Restraining Order filed July 14, 2015. On October 23, 2015, the TRO was dismissed by the court, which determined that Petitioner's allegations of domestic violence had not been substantiated. See Order of Dismissal entered October 23, 2015 by Passaic County Family Part.

At the hearing, the ALJ found Petitioner's testimony to be credible when she alleged that she moved from the \$1,100.00 per month apartment to a \$1,400.00 per month apartment, under the belief that her ex-husband would continue paying her rent. See Initial Decision at 3. I respectfully disagree with the ALJ's opinion and, instead, find that it defies logic to think that Petitioner believed that, after she filed a TRO against her ex-husband, and attempted through the court to make that restraining order permanent, her ex-husband would continue paying rent on her behalf. Rather, because Petitioner voluntarily moved from an affordable apartment into an unaffordable one, with no ability or plan as to how she would pay the rent, she caused her own homelessness, without good cause. See N.J.A.C. 10:90-6.1(c).

Under the facts herein, Petitioner's imminent homelessness is the result of circumstances that were within her control and, for that reason, the Agency properly

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denied Petitioner's EA/TRA application effective December 4, 2015. See Initial Decision at 2; see also Agency's EA Notification Form dated December 4, 2015. Based on the foregoing, I hereby reject the ALJ's conclusion that Petitioner is eligible for EA/TRA, and find that the Agency's denial was appropriate and must stand.

Moreover, because Petitioner caused her own homelessness, without good cause, I find that she is subject to a six-month EA ineligibility penalty beginning on December 4, 2015, the date of the denial. See N.J.A.C. 10:90-6.1(c)(3). Petitioner may reapply for EA on or after June 5, 2016.

Accordingly, the Initial Decision is hereby REJECTED and the Agency's action is hereby AFFIRMED.

Signed Copy on File
at DFD, BARA

JAN 26 2016

Natasha Johnson
Director