



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 10016-14 C.B.

AGENCY DKT. NO. C022186 (SALEM COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's termination of his Work First New Jersey/Temporary Assistance for Needy Families ("WFNJ/TANF") and Emergency Assistance ("EA") benefits for voluntarily quitting his employment. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On September 8, 2014, the Honorable Bruce M. Gorman, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On September 15, 2014, the ALJ issued his Initial Decision reversing the Agency's determination.

No exceptions to the Initial Decision were filed.

As Director of the Division of Family Development, Department of Human Services, I have considered the record for this matter and the ALJ's Initial Decision, and having made an independent evaluation of the record, I accept and adopt the Findings of Fact and the Conclusions of Law as contained in the Initial Decision.

Pursuant to N.J.A.C. 10:90-4.14, an adult recipient of WFNJ benefits, who voluntarily quits a job, without good cause, shall render the entire assistance unit ineligible for WFNJ cash assistance benefits for a period of two months. The two month period of ineligibility shall begin on the date that the Agency makes the determination that the recipient quit the job. *Ibid.*

Pursuant to N.J.A.C. 10:90-6.1(c)(3), if a WFNJ recipient voluntarily quits his or her employment without good cause, then the entire household is ineligible for EA for a period of six months.

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Here, Petitioner reported to the Agency on July 22, 2014 that he was terminated from his employment at a restaurant. Written confirmation from the employer indicated that Petitioner was terminated due to attendance problems. See Exhibit R-1:5. The Petitioner testified that at the time he was hired, he was hired for a "fixed shift" and he explained that he had a minor child, requiring childcare arrangements. The Agency assisted Petitioner with his child care arrangements. Petitioner further testified that the employer changed his schedule from a fixed shift to a floater causing him to work various hours resulting in problems with transporting his child to daycare and arriving to work untimely due to dependence on public transportation. Petitioner testified that while he never missed work, he did admit to being tardy due to his son. He also stated that he was even called in on the weekend when the daycare was closed and he was forced to find a relative to care for his son.

The ALJ found it undisputed that Petitioner did not voluntarily quit his job, but that the determining issue is whether Petitioner violated the employer's written rules or policies. There was no testimony from the employer regarding their policies on tardiness or whether petitioner was offered a fixed shift. The only evidence from the employer is the letter sent in response to the Agency's query (Exhibit R-1:5), which amounts to hearsay and cannot be the basis for disposition of the case.

The ALJ concluded, and I agree, that the employer was made aware of petitioner's childcare problem, but chose to ignore it when scheduling him for shifts. Therefore, Petitioner's termination does not constitute a voluntary quit. As such, the Agency's termination of Petitioner's TANF and EA must be reversed.

Accordingly, the Agency action is REVERSED.

NOV. 07 2018

Signed Copy on File
at DFD, BARA

Jeanette Page-Hawkins
Director