



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 671-15 D.W.

AGENCY DKT. NO. C325512 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from Respondent Agency's denial of Emergency Assistance ("EA") benefits in the form of Temporary Rental Assistance ("TRA") and imposition of a six-month period of EA ineligibility. The Agency denied Petitioner's request because it concluded that Petitioner was being evicted from her affordable housing for allowing criminal activities to take place in her dwelling. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On February 18, 2015, it was converted to an emergent matter. The ALJ scheduled a hearing for February 18, 2015, but it was adjourned in order to allow the Agency time to produce witnesses. On March 4, 2015, the Honorable Kimberly A. Moss, Administrative Law Judge ("ALJ"), held a hearing, took testimony and admitted documents. On March 4, 2015, the ALJ issued an Initial Decision reversing the Agency determination.

No exceptions to the Initial Decision were filed by either party.

As the Deputy Director of the Division of Family Development, Department of Human Services, I have reviewed the record, and hereby ADOPT the ALJ's Initial Decision and REVERSE the Agency determination.

The purpose of EA is to meet the emergent needs of public assistance recipients, such as imminent homelessness, so that the recipient can participate in work activities without disruption and continue on the path to self-sufficiency. N.J.A.C. 10:90-6.1(a). In order to be eligible for EA benefits, N.J.A.C. 10:90-6.1(c) provides, in pertinent part, that the individual must have "an actual or imminent eviction from

prior housing, and the assistance unit is 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."

EA assistance is not "provided for a period of six months when an adult EA applicant or recipient has caused his or her own homelessness, without good cause, for reasons that may include, but are not limited to...[e]viction from private, public and/or subsidized housing because of criminal activity, except when the criminal activity was committed by an adult who is no longer a part of the assistance unit...[or if t]he adult applicant's or recipient's behavior directly caused the eviction." N.J.A.C. 10:90-6.1(c)(3)(iii) & (vi).

In the present matter, Petitioner applied for EA in the form of TRA because she was "being evicted due to creating a hostile environment of where she resides by allowing criminal activities to [take] place in the dwelling." See Exhibit R-1 at 2. The incident that the Agency relied upon as the basis for its denial of EA/TRA benefits was the November 23, 2014, arrest of Petitioner's boyfriend at her apartment for him having committed an armed robbery within the brief period of time between his leaving, and returning, to Petitioner's apartment on that day. See Initial Decision at 2; Exhibit R-2 at 1. The police were granted entry to Petitioner's apartment by her when they arrived and found a woman's pocket book and empty bag in the garbage can, immediately then arresting Petitioner's boyfriend. See Initial Decision at 2.

Petitioner was not arrested. See Initial Decision at 2. After the arrest incident, Petitioner's landlord presented her with a "Notice to Quit and Notice to Cease," dated November 24, 2014, citing the arrest incident and referencing other issues that formed the basis for the landlord's demand that Petitioner vacate her apartment by December 31, 2014. See Exhibit R-2 at 1-2. The ALJ found that Petitioner did not know that her boyfriend was involved in an armed robbery, and the boyfriend did not live at the Petitioner's apartment. See Initial Decision at 2-3. Moreover, the ALJ found that the Agency presented no evidence to support the allegation that Petitioner knew, allowed, and/or was involved in, "violent criminal activity and drug related crimes" at her dwelling. See Initial Decision at 3. Furthermore, as the ALJ noted, Petitioner's boyfriend was not a part of her assistance unit. See Initial Decision at 4.

The ALJ therefore concluded that the Agency acted improperly when it denied Petitioner EA/TRA because there was no evidence presented that showed criminal activity took place at Petitioner's apartment, nor was there any evidence presented that showed Petitioner, or any other adult in her assistance unit, if any, caused the circumstances that lead to the landlord's demand that Petitioner vacate her apartment. See Initial Decision at 4. I agree with this analysis, and further find that the imposition of a six-month EA penalty by the Agency was improper.

The ALJ then noted, however, that Petitioner is "not presently experiencing an emergency," as the landlord did not evict her. See Initial Decision at 3. That is, the complaint against Petitioner had been dismissed in "Landlord Tenant Court." Ibid.

Accordingly, for clarification of the record, because Petitioner is not in imminent danger of being homeless, I find that she is not presently eligible for EA/TRA. Petitioner is without prejudice to reapply for EA benefits if her circumstances change and she is otherwise eligible pursuant to N.J.A.C. 10:90-6.1.

Based upon the foregoing, the Initial Decision is ADOPTED and the Agency's determination is REVERSED.

MAR 24 2015

Signed Copy on File
at DFD, BARA

Jeanette Page-Hawkins
Director