



DEPARTMENT OF HUMAN SERVICES

Division of Family Development
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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 7313-15 M.A.

AGENCY DKT. NO. C130868 (OCEAN COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's denial of her application for Emergency Assistance ("EA") in the form of Temporary Rental Assistance ("TRA"). The Agency denied Petitioner EA because she did not have an emergency beyond her control and did not lack a realistic capacity to plan. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On May 21, 2015, the Honorable Joseph A. Ascione, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents into evidence. On May 22, 2015, the ALJ issued his Initial Decision affirming the Agency determination.

Neither party filed exceptions to the Initial Decision.

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 ADOPT the Initial Decision and AFFIRM the Agency's determination.

In order for a public assistance recipient to be eligible for EA/TRA, 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." N.J.A.C. 10:90-6.1(c). Documentation must be presented to the Agency demonstrating that an eviction is pending. N.J.A.C. 10:90-6.3(a)(1)(ii).

However, when a recipient has caused his or her own homelessness, without good cause, a six-month EA ineligibility penalty shall be imposed. See N.J.A.C. 10:90-6.1(c)(3).

At the hearing, the ALJ found that Petitioner created her housing emergency, thereby causing her own homelessness. See Initial Decision at 5. The record indicates that Petitioner, the mother of two teenagers, is not working and her only income is WFNJ/Supplemental Nutritional Assistance Program ("WFNJ/SNAP") benefits of approximately \$300.00 per month. See Initial Decision at 2. On June 6, 2014, Petitioner entered into a lease with a co-tenant, E.G., for an apartment in Tuckerton with rental payments of \$1,750.00 per month. See Initial Decision at 3-4; see also Exhibit R-10. Subsequently, on December 1, 2014, Petitioner entered into a second lease with co-tenant E.G. for an apartment in Forked River with rental payments of \$1,500.00 per month. See Initial Decision at 3; see also Exhibit R-2.

Petitioner testified that when she and E.G. signed the December 2014 lease, they had a verbal agreement that E.G. would pay the rent and Petitioner's only obligation would be the payment of utilities. See Initial Decision at 3. During the past few months, however, E.G. became ill and he could no longer pay the rent. Ibid. Rather than pay the utilities, Petitioner decided to use her income to make payments toward the rent. Ibid. However, by late April, the rent had fallen behind two months and the utility bills were not paid. Ibid. At an April 24, 2015 eviction hearing for non-payment of rent, Petitioner and E.G. voluntarily surrendered the leased premises to the landlord. See Initial Decision at 3. However, Petitioner provided no written proof of the eviction proceeding or its outcome. See Initial Decision at 4. Thereafter, Petitioner contacted the Agency on May 7, 2015 to apply for EA, and returned on May 11, 2015 with additional documentation to complete her application. See Initial Decision at 3. Petitioner's EA application was denied by the Agency because she did not have an emergency beyond her control and did not lack a realistic capacity to properly plan for her housing. See Initial Decision at 1-2; see also Exhibit R-1.

The ALJ concluded that, by her actions, Petitioner created her own emergency which was not beyond her control. See Initial Decision at 5. Specifically, Petitioner voluntarily abandoned her leasehold back to the landlord to avoid a warrant of removal, but she provided no documentation in proof of same. See Initial Decision at 4. In addition, Petitioner provided no medical information as to E.G.'s illness when rent payments first became overdue. Ibid. Therefore, Petitioner severely prejudiced her EA application by failing to provide supporting documents. Ibid. Also, because Petitioner first sought help from the Agency on May 7, 2015, she did not give the Agency an opportunity to intervene in her housing crisis on a temporary basis before she surrendered the leasehold to the landlord. See Initial Decision at 4-5.

Based on the foregoing, the ALJ found that Petitioner's voluntary surrender of the

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leased premises prior to applying for EA was a creation by Petitioner of her own emergency, and that the Agency's denial was, in large part, related to same. See Initial Decision at 4. Finally, the ALJ concluded that Petitioner "intentionally created the emergency, thereby placing the creation of the emergency entirely within her control." Ibid. Accordingly, Petitioner failed to prove that she qualifies for EA and, as a result, the Agency properly denied Petitioner's EA application. See Initial Decision at 5.

Because Petitioner caused her own homelessness, she is subject to a six-month EA ineligibility penalty, which I hereby impose pursuant to N.J.A.C. 10:90-6.1(c)(3). The six-month penalty shall run from May 18, 2015, the effective date of Petitioner's EA denial, through November 18, 2015.

Accordingly, the Initial Decision in this matter is ADOPTED, and the Agency determination is AFFIRMED.

Signed Copy on File
at DFD, BARA

MAY 28 2015

Natasha Johnson
Director