



State of New Jersey

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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 03610-18 M.O.

AGENCY DKT. NO. C276349016 (PASSAIC COUNTY BOARD OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's termination of Emergency Assistance ("EA") benefits in the form of Temporary Rental Assistance ("TRA"). The Agency terminated Petitioner's EA/TRA benefits contending that she voluntarily left a previously approved EA/TRA apartment, without proper placement into another apartment, and that her nonpayment of monthly rental fees at her previous apartment caused her homelessness. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On March 12, 2018, the Honorable Julio C. Morejon, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On March 13, 2018, the ALJ issued an Initial Decision, reversing the Agency's determination.

No Exceptions to the Initial Decision were received.

As the Director of the 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, and REVERSE the Agency's determination.

Pursuant to N.J.A.C. 10:90-6.1(a)(1), EA benefits shall be made available "[w]hen shelter costs equal or exceed total recorded income to the [Work First New Jersey ("WFNJ")] or [Supplemental Security Income ("SSI")] assistance unit and the recipient is unable to document other sources of income, for example, loans from relatives, which enable the individual or family to meet monthly housing/living expenses[.]"

N.J.A.C. 10:90-6.3(a)(7) and -6.3(a)(7)(i)(1) state, in pertinent part, "The Agency may authorize TRA when the total cost of housing inclusive of basic utilities is equal to or below the current Fair Market Rent (FMR) Amounts in excess of the current FMR will require prior approval and authorization of subsidy level by DFD."

Here, the record reflects that Petitioner was receiving EA/TRA benefits for her prior apartment. See Initial Decision at 2. The Agency paid \$883 per month, and Petitioner was responsible for paying her \$97 share of the monthly rent, plus a \$35 per month parking fee and a \$65 per month pet fee. See Exhibits R-2, R-4; see also N.J.A.C. 10:90-6.5(a). However, Petitioner failed to pay those rental fees for the months of August, September, October, 2017, and her landlord commenced eviction proceedings. See Initial Decision at 3; see also Exhibit R-3. On February 28, 2018, prior to being evicted, Petitioner moved out of that apartment because she was unable to pay her January 28, 2018, rent or her rental fees, in accordance with a Consent to Enter Judgment, and immediately moved into a more affordable apartment. Ibid. On February 28, 2018, Petitioner advised the Agency of her move into a new apartment. See Initial Decision at 3. Petitioner's current landlord did not require a security deposit, the monthly rent is \$980, and Petitioner only needs to pay a one-time \$100 pet deposit. Ibid. Petitioner is also seeking a return of her prior security deposit, and is contesting her



prior landlord's refusal to return that deposit in court. Ibid. Of note, Petitioner's current apartment is below the FMR for Passaic County, and Petitioner's shelter costs exceed her total recorded WFNJ/Temporary Assistance for Needy Families ("TANF") benefits income. Ibid.; see also N.J.A.C. 10:90-3.3(b), -6.1(a)(1), -6.3(a)(7), and DFD Instruction 17-09-05. Nevertheless, the Agency terminated Petitioner's EA/TRA benefits, on that same date, contending that she moved without prior approval, and that the nonpayment of her prior rental fees caused her eviction. Id. at 2; see also Exhibit R-1; and N.J.A.C. 10:90-6.1(c)(3)(vi).

However, the ALJ found that Petitioner's decision to move out of an unaffordable apartment into an affordable apartment had not resulted in any increased expense to the Agency, as Petitioner did not have to pay a security deposit, and the rent at her new apartment is the same as the previous apartment. See Initial Decision at 4-5. Further, the ALJ found that Petitioner's failure to pay her rental fees did not cause her homelessness such that it can be found that she violated her EA service plan ("SP"). Ibid.; see also Exhibit R-2, and N.J.A.C. 10:90-6.6(a). Moreover, I find that Petitioner was not, and is not, homeless, such that she could be found to have caused her own homelessness. See Initial Decision at 3; see also N.J.A.C. 10:90-6.1(c)(3)(iv). Based on the foregoing, the ALJ concluded that the Agency failed to prove, by a preponderance of the evidence, that Petitioner's move to another similar apartment was in violation of her SP, or a violation of the WFNJ/EA regulations. See Initial Decision at 5. Accordingly, the ALJ concluded that the Agency's termination of Petitioner's EA/TRA benefits was improper and must be reversed. Ibid.; see also Exhibit R-1. I agree.

By way of comment, Petitioner is advised that she is responsible for the payment of the \$100 pet deposit fee on her new apartment. See Initial Decision at 3. Petitioner is also advised that she must provide the Agency with all necessary documentation regarding her new apartment as may be requested by the Agency. See N.J.A.C. 10:90-2.2(a)(5).

Accordingly, the Initial Decision is hereby ADOPTED, and the Agency's action is REVERSED.

Officially approved final version.

MAR 20 2018

Natasha Johnson
Director

