



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Family Development

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Acting Commissioner

Natasha Johnson
Director

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

REMAND DECISION

OAL DKT. NO. HPW 15946-15 A.G.

AGENCY DKT. NO. C304025 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner appeals from the Respondent Agency's denial of her application for Emergency Assistance ("EA") benefits in the form of Temporary Rental Assistance ("TRA"), as well as payment of retroactive utilities. The Agency denied Petitioner's application because it contended that Petitioner's husband was a co-tenant on her lease and was responsible for half the rent. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On October 16, 2015, the Honorable Evelyn M. Marose, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On October 19, 2015, the ALJ issued her Initial Decision reversing the Agency determination.

Exceptions to the Initial Decision were filed by Petitioner on October 27, 2015.

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, following an independent review of the record, I hereby ADOPT the Initial Decision, REVERSE the Agency's determination, and REMAND this case to the Agency for further action as set forth herein.

EA shall be provided when 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." See N.J.A.C. 10:90-6.1(c). However, when an adult EA applicant or recipient has caused her

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own homelessness, without good cause, EA shall not be provided for a period of six months. See N.J.A.C. 10:90-6.1(c)(3).

The record reflects that the assistance unit consists of Petitioner and her 13-year old daughter. See Initial Decision at 2. In April 2015, Petitioner was terminated from her job. Ibid. Thereafter, her application for Unemployment Insurance Benefits ("UIB") was denied. Ibid. Through financial assistance from friends and family, Petitioner managed to pay her rent for June, July, and August 2015. Ibid. However, Petitioner was unable to pay her rent for September and October 2015. Ibid. Therefore, Petitioner's landlord filed an eviction action against her, and a Warrant of Removal was issued. See Initial Decision at 2; see also Exhibits P-10 and P-11. Although she was to be removed from the premises on October 21, 2015, Petitioner obtained a stay of the lockout until November 5, 2015. See Initial Decision at 2; see also Exhibit P-10 and Petitioner's Exceptions filed October 27, 2015.

On October 1, 2015, the Agency denied Petitioner EA/TRA because it claimed that Petitioner's husband still resides in the apartment; that he is not a Work First New Jersey ("WFNJ") or Supplemental Security Income ("SSI") recipient; and that he is responsible for half of the household's rent. See Initial Decision at 3; see also Exhibit R-2. Through testimony from Petitioner and her ex-husband at the hearing, the ALJ found that Petitioner and her ex-husband initially resided at the apartment ten years ago when the original lease was prepared. See Initial Decision at 3. However, Petitioner and her ex-husband separated five years ago, at which time the ex-husband left the residence and has since lived with his mother. Ibid. Petitioner's ex-husband produced two forms of documentation proving that he no longer lives at Petitioner's address. Ibid.; see also Exhibits P-1, P-2 and P-3. Moreover, the most recent lease renewal letter sent by Petitioner's landlord on June 15, 2015, was addressed solely to Petitioner. See Initial Decision at 3; see also Exhibit P-5.

In her Initial Decision, the ALJ concluded, and I concur, that the Agency's denial of EA/TRA to Petitioner based on the alleged co-occupancy of Petitioner's apartment by her ex-husband was improper and should be reversed. See Exhibit R-2. However, an independent review of the record reveals that Petitioner was terminated from her job for cause in April 2015. See Initial Decision at 2; see also Exhibit R-1. In fact, Petitioner's termination from employment resulted in a denial of her application for UIB. Ibid. Thus, it appears that Petitioner may be ineligible for EA/TRA because of a voluntary quit that caused her own homelessness. Moreover, a review of Petitioner's PSE&G printout indicates that, even though she was employed from May 2013 through April 2015 (see Exhibit R-1), Petitioner made no payments to PSE&G for ten months, from February 2014 through December 2014. See Exhibit P-8. Based on the foregoing, I hereby remand this case to the Agency to reevaluate Petitioner's EA/TRA eligibility in light of the possibility of a voluntary quit, as well as Petitioner's non-payment of her utility bills while she was employed.

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Should the Agency determine that the Petitioner is ineligible for EA it must issue a new denial notice in accordance with N.J.A.C. 10:90-9.1 et seq. and Petitioner shall retain the right to request a Fair Hearing on the denial.

Accordingly, the Initial Decision is hereby ADOPTED, the Agency's action is hereby REVERSED, and this case is hereby REMANDED to the Agency for further action as set forth above.

Signed Copy on File
at DFD, BARA

NOV 10 2015

Natasha Johnson
Director