



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 12071-15 A.L.

AGENCY DKT. NO. C144942 (BURLINGTON COUNTY BD. OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's denial of her application for Emergency Assistance ("EA") benefits in the form of Temporary Rental Assistance ("TRA") because she had a realistic capacity to plan. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On August 19, 2015, the Honorable John S. Kennedy, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On August 20, 2015, the ALJ issued his Initial Decision reversing the Agency determination.

No Exceptions to the Initial Decision were filed.

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 REJECT the Initial Decision and AFFIRM the Agency determination.

EA is a supportive service available to Work First New Jersey ("WFNJ") and Supplemental Security Income ("SSI") recipients 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). A lack of a realistic capacity to plan is defined as "insufficient time to secure housing between receipt of notice of imminent loss of housing and actual eviction...." See N.J.A.C. 10:90-6.1(c)(1)(i).

The record reveals that Petitioner is a single mother with a two-year old child. See Initial Decision at 2; see also Exhibit R-1 at 8. On July 13, 2015, Petitioner was locked out of her apartment as the result of an eviction action by her landlord. See Initial Decision at 2; see also Exhibit R-1 at 23. On August 4, 2015, Petitioner visited the Agency and applied for WFNJ/Temporary Assistance for Needy Families ("WFNJ/TANF") benefits, Supplemental Nutrition Assistance Program ("SNAP"), f/k/a the Food Stamp Program, benefits, and medical benefits. See Initial Decision at 2; see also Exhibit R-1 at 1. Petitioner advised the Agency that she could not afford her rent of \$635.00 per month, even though she was employed during the eviction process and through the date of her lockout. See Initial Decision at 2. Petitioner's application for SNAP benefits was approved on August 5, 2015, but her WFNJ/TANF and medical benefits applications are currently still pending. Ibid. The Agency offered Petitioner shelter, but Petitioner refused and left the Agency without applying for EA. Ibid.

Thereafter, on August 7, 2015, Petitioner returned to the Agency and applied for EA. Ibid. Included with Petitioner's EA application is a copy of the Warrant of Removal obtained by her landlord on July 2, 2015, indicating that Petitioner would be evicted from her apartment on July 13, 2015. Ibid.; see also Exhibit R-1 at 23. Petitioner lost her job on July 17, 2015, and she has a pending application for unemployment insurance benefits. See Initial Decision at 2-3. Petitioner is also on the waiting list for low-income housing. See id. at 3.

At the fair hearing, Petitioner testified that she was unaware of the eviction action against her until July 8, 2015, when the Warrant of Removal was placed on her door. See Initial Decision at 2. However, that statement is contradicted by subsequent testimony revealing that, two weeks prior to July 8, 2015, Petitioner's sister spoke with her landlord about unpaid rent. Ibid. During that conversation, the landlord informed Petitioner's sister that the rent was behind one and one-half months, and that Petitioner owed approximately \$990.00. Ibid. The landlord advised that if Petitioner paid \$700.00 towards the unpaid rent within a few days, he would not pursue an eviction action. Ibid. Apparently, Petitioner did not pay \$700.00 to the landlord, resulting in her eviction on July 13, 2015. See Exhibit R-1 at 23.

Moreover, in February 2015, Petitioner's landlord filed an eviction action against her for non-payment of rent. See Initial Decision at 3; see also Exhibit P-1. On February 27, 2015, the date of the tenancy hearing, Petitioner settled the case with her landlord by paying him approximately \$900.00 in unpaid rent from her income tax refund. See Initial Decision at 3.

On August 7, 2015, the Agency denied Petitioner's EA application because she had the realistic capacity to plan in advance for alternate housing, but did not do so. See Initial Decision at 1; see also Exhibit R-1 at 19. The Agency stated that, because

Petitioner was employed throughout the eviction process, as well as after the date of her eviction, she had sufficient time and resources to plan in advance for alternate living arrangements. Ibid.

In his Initial Decision, the ALJ concluded that Petitioner lacked a realistic capacity to plan because there was insufficient time for her to secure alternate housing between the date the Warrant of Removal was posted on her door (July 8, 2015), and the date that Petitioner was evicted (July 13, 2015). See Initial Decision at 3-4. I disagree with the ALJ and, accordingly, reject the Initial Decision for the following reasons. First, six months ago, Petitioner was the defendant in an eviction action brought by her landlord against her for non-payment of rent. See Initial Decision at 3; see also Exhibit P-1. Therefore, Petitioner was fully familiar with the consequences of not paying her rent on time. Second, Petitioner's sister spoke to the landlord, two weeks prior to the date Petitioner received the Warrant of Removal, in an attempt to work out an arrangement regarding the unpaid rent. Based upon the foregoing, I find that Petitioner had the realistic capacity to plan to arrange alternate housing. Thus, the Agency's action was appropriate and, therefore, must stand.

Moreover, I note that the WFNJ regulations clearly state that only WFNJ and SSI recipients are eligible for EA. See N.J.A.C. 10:90-6.2(a). Inasmuch as Petitioner is presently not a WFNJ or SSI recipient because her WFNJ/TANF benefits have not yet been approved, she is also ineligible for EA on that basis.

Accordingly, the Initial Decision is hereby REJECTED and the Agency determination is hereby AFFIRMED.

Signed Copy on File
at DFD, BARA

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Natasha Johnson
Director