



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 7230-15 M.P.

AGENCY DKT. NO. GA583125 (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"). The Agency denied Petitioner EA/TRA because he had a realistic capacity to plan to prevent homelessness. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On May 26, 2015, the Honorable Caridad F. Rigo, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On May 26, 2015, the ALJ issued an Initial Decision reversing 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 reviewed the ALJ's Initial Decision and the record, and having made an independent evaluation of the record, I REJECT the ALJ's Initial Decision and AFFIRM the Agency's determination.

EA/TRA is intended to be a supportive service for public assistance recipients to meet emergent housing needs in order to minimize homelessness. See N.J.A.C. 10:90-6.1(a). To be eligible for EA benefits, 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." See N.J.A.C. 10:90-6.1(c).

Here, the record indicates that in January 2015, Petitioner applied to the Agency for Work First New Jersey/General Assistance ("WFNJ/GA") and Supplemental Nutrition for Needy Families ("SNAP"), f/k/a the Food Stamps Program, benefits. See Exhibit R-6. Petitioner was granted WFNJ/GA of \$210.00 per month, as well as SNAP benefits of \$194.00 per month, beginning in January 2015. See Initial Decision at 2. On March 23, 2015, Petitioner left his Newark apartment, which had a monthly rent of \$565.00, after a fire in the basement. See Initial Decision at 2; see also Exhibit R-5. That same day, Petitioner visited the Agency and applied for EA/TRA. See Exhibit R-7. On May 19, 2015, the Agency sent Petitioner an adverse action notice advising that his EA/TRA application was denied effective April 4, 2015 because he had the capacity to plan to prevent homelessness. See Exhibit R-2.

Petitioner testified at the hearing that "his home burned down on March 23, 2015." See Initial Decision at 2. However, a report from the Newark Fire Department indicates that Petitioner's home did not burn down, because the fire occurred in the basement due to "massive amounts of rubbish" and the fire was confined to the basement. See Exhibit R-5. Further, Petitioner did not provide any documentation to substantiate his testimony that he was forced to leave his apartment because of the fire, nor did he provide any documents concerning a pending or past eviction action, as is required by the regulations. See N.J.A.C. 10:90-6.3(a)(1)(ii).

Further, there is nothing in the Newark Fire Department's report indicating that the fire rendered Petitioner's apartment uninhabitable. See Exhibit R-5. Indeed, the report indicates that the fire was confined to its source; specifically, the large amounts of "rubbish" in the basement. *Ibid.* Therefore, it follows that Petitioner either vacated his apartment voluntarily after the fire, or he was asked to leave by his landlord. Under either fact scenario, Petitioner is ineligible for EA/TRA because he is not homeless or imminently homeless due to circumstances beyond his control. See N.J.A.C. 10:90-6.1(c).

Finally, Petitioner provided a letter from his brother, C.P., dated May 13, 2015, advising that Petitioner has been staying with him but that C.P.'s landlord "is a little upset" about the arrangement. See Exhibit R-8. C.P.'s letter is insufficient to prove that Petitioner was forced to leave C.P.'s home because, if he did not, C.P. would be evicted. Therefore, C.P.'s letter does not rise to the level of documented proof that Petitioner's imminent homelessness resulted from circumstances beyond his control, or that Petitioner lacked a realistic capacity to plan to prevent his own homelessness. See N.J.A.C. 10:90-6.1(c).

Based on the above, I disagree with the ALJ that Petitioner has suffered a substantial loss of housing due to circumstances beyond his control. See Initial Decision at 3. Rather, I agree with the Agency that Petitioner had a realistic capacity to prevent his homelessness and, therefore, the Agency properly denied Petitioner EA/TRA.

In addition, because Petitioner had a realistic capacity to plan to prevent his own homelessness, he 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 April 4, 2015, the effective date of the Agency's denial of Petitioner's application, through October 4, 2015. Accordingly, Petitioner may reapply for EA on or after October 5, 2015.

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

Signed Copy on File

at DFD, BARA

JUN 08 2015

Natasha Johnson
Director