



State of New Jersey

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Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
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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

FINAL DECISION

OAL DKT. NO. HPW 03213-18 S.R.

AGENCY DKT. NO. C721210007 (ESSEX COUNTY DIVISION OF WELFARE)

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 the executed lease presented to the Agency indicated that a co-tenant resided with Petitioner. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On March 23, 2018, and April 2, 2018, the Honorable Ernest M. Bongiovanni, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. The record was held open for the parties to provide written comments, if desired, by April 9, 2018, on which date the record was closed. On April 11, 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 REJECT the ALJ's Initial Decision, and AFFIRM the Agency's determination.

EA benefits, in the form of TRA, may be provided when the recipient is facing eviction, in order to maintain current permanent housing which had been previously affordable but which is no longer affordable for reasons such as, but not limited to, loss of employment, temporary unemployment or underemployment and it is anticipated that such housing will again become affordable. N.J.A.C. 10:90-6.3(a)(6).

N.J.A.C. 10:90-6.3(a)(7) states 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 on January 11, 2018, Petitioner was approved for EA/TRA benefits in the form of a security deposit and six months of prospective rental payments. See Initial Decision at 2; see also Exhibit R-3. On January 18, 2018, the landlord and Petitioner executed a lease, in which Petitioner and an adult friend signed as co-tenants. See Initial Decision at 2; see also Exhibit R-1. Consequently, on February 16, 2018, the Agency terminated Petitioner EA/TRA benefits as the lease "was faxed over with an additional adult on the lease," and because the "[c]lient's roommate must provide her share of any rent payments or deposits." See Initial Decision at 2, 3; see also Exhibit P-3, and N.J.A.C. 10:90-6.1(c)(2). Petitioner testified that she and her friend had never lived together and that her friend's signing of the lease was a misunderstanding. See Initial Decision at 3. On or about January 20, 2018, the landlord and Petitioner executed another lease, which did not include Petitioner's friend as a co-tenant. See Initial Decision at 2; see also Exhibit R-2. The Agency testified that it viewed the second lease as a fabricated document, and that neither the second lease,



nor the first lease, complied with the eligibility requirements for rental assistance, as both leases provided for an increase in rent from \$1,450 for the first month's rent, to \$1,600 per month for the remainder of the six-month lease, thereby making the cost of the apartment more than the FMR for Essex County. See Initial Decision at 2; see also Exhibits R-1, and R-2, and N.J.A.C. 10:90-6.3(a)(7)(i)(1) and DFD Instruction ("DFDI") 17-09-05. In an attempt to comply with the FMR requirement, a third lease was executed between the landlord and Petitioner as the sole tenant, which lowered the rent to \$1,450 for the balance of the lease. See Initial Decision at 3, 4; see also Exhibit P-2.

Based on the evidence presented at the hearing, the ALJ found that the rental terms of the third lease conformed to the Agency's requirements for EA/TRA benefits eligibility, and as such, the Agency's termination of Petitioner's EA benefits was unreasonable. See Initial Decision at 5; see also Exhibit P-2. Therefore, the ALJ concluded that the Agency's termination of EA benefits to Petitioner was improper and must be reversed. See Initial Decision at 6; see also Exhibit P-3, and N.J.A.C. 10:90-6.1. I respectfully disagree. Rather, I find that Petitioner's two-bedroom apartment at \$1,450 per month for rent, plus the cost of utilities for which Petitioner is also responsible, is nonetheless above the FMR of \$1,314 for a two-bedroom apartment in Essex County. See Initial Decision at 4; see also Exhibit P-2 at 2, 5-6, and N.J.A.C. 10:90-6.3(a)(7), and DFDI 17-09-05. Therefore, because the cost of Petitioner's apartment is above the FMR for Essex County, I find that Petitioner is ineligible for EA/TRA benefits. See N.J.A.C. 10:90-6.3(a)(7)(i)(1). Accordingly, I conclude that the Agency properly terminated Petitioner's EA/TRA benefits. See Initial Decision at 2; see also Exhibit P-3.

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

Officially approved final version.

Natasha Johnson
Director

~~MAY 22~~ 2018

