

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 13,603

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Appeal of)

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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare denying his application for general assistance (GA) for help with his rent and a truck payment. The issue is whether the petitioner is "able-bodied" within the meaning of the pertinent regulations.

FINDINGS OF FACT

The facts are not in dispute. The petitioner is a forty-seven-year-old single man, who until recently was employed as a maintenance man for a retirement community. The petitioner alleges that he left this job after four years not because of his inability to do the work, but because his employer would not hire additional help for him. The petitioner has applied for unemployment benefits but has been turned down because it was determined (by the Department of Employment and Training) that he "voluntarily quit" his last job. The petitioner has appealed that decision. In applying for unemployment benefits the petitioner did not allege any physical basis for not being able to perform his last job, and he placed no physical limitations on the types of jobs he would seek and accept in the future. As of the date of his fair hearing, May 10, 1995, the petitioner stated that he was recently hired at a new job that starts in three weeks.

In connection with his application for GA the petitioner submitted a report from his treating physician that he cannot perform a "heavy labor type of job", and that he should limit himself to jobs that don't entail lifting more than 25 pounds, with no "prolonged standing, walking, bending, etc."

ORDER

The Department's decision is affirmed.

REASONS

Under the regulations an individual without dependents is eligible for GA only if he is not "able-bodied". Welfare Assistance Manual (W.A.M.) § 2600(B). W.A.M. § 2601 defines "able-bodied" as follows:

Able-bodied - means a person who has no physical or mental impairment which prevents him from working. A person shall be considered as not able-bodied if he is currently unable to work due to physical or emotional problems which have or presumably will last at least 30 days. This eligibility factor must be verified by a signed statement from a physician or licensed practitioner whose services would be covered under Medicaid were the GA applicant a Medicaid recipient.

In this case the petitioner admits not only that he was physically capable of performing his most recent job, but also that he has been able to obtain a new job. He also has not limited his availability for work vis-a-vis unemployment compensation due to physical limitations. Although in cases of prolonged unemployment, or a demonstrated inability to do one's former work, an individual with the petitioner's physician-certified limitations might be considered not able-bodied, the evidence in this case is clear that the petitioner is not so limited. His physical limitations did not lead to his present unemployment, and he has been able to look for and find another job.

Therefore, the above definition is not met, and the Department's decision must be affirmed. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 19.

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