

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 14,683

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Appeal of)

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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare finding her eligible for only \$750 in Emergency/General Assistance (EA/GA). The issue is whether the petitioner had an emergency need for more assistance within the meaning of the pertinent regulations.

FINDINGS OF FACT

The petitioner has two children. She applied for EA and ANFC on November 5, 1996. At the time, she was involved in an eviction proceeding in District Court, and she had just received a notice from the Court that she had to pay \$550 in back rent to the Court to avoid an immediate writ of eviction. The Department denied her EA because even though she had been working half time for several months she had not paid any rent, and was thus not without "control" over her eviction.

On November 27, 1996, the Department granted the petitioner's application for ANFC and gave her a check for \$340. The next day the Department issued the petitioner an additional ANFC check of \$90 because it had miscalculated the petitioner's hours of work. That same day the petitioner informed the Department that she had found another apartment but needed additional money to move in. The Department granted the petitioner EA in the amount of \$750, which was the first month's rent on the apartment, as an "exception", to its usual policy (see infra) of requiring that applicants be "without fault" in causing their eviction.

The petitioner felt that she should also receive \$750 for the security deposit on the new apartment and an additional unspecified amount for moving expenses, and she requested an "expedited hearing" to appeal the Department's decision. On December 3, 1996, based on the Department's representation that the petitioner had been able to move in to her new apartment, the hearing officer denied any expedited relief.

At the regularly scheduled hearing in this matter, held on December 18, 1996, the petitioner represented that she shared the new apartment with her brother and his children (who are also on ANFC) and that between the two of them they had paid the first month's rent of \$750 and a security deposit in the same

amount. (It does not appear that the petitioner, when she applied for EA, informed the Department that she would be sharing expenses in the apartment.) She stated that she moved into the apartment herself (i.e., she didn't incur moving expenses) but that she still owes \$200 on an electric bill from the old apartment, for which she is in the process of negotiating a repayment plan with the utility company. She admitted, however, that she was able to obtain all the utilities for the new apartment.

The petitioner alleges that she was unable to pay rent in her old apartment because she had to buy a car as soon as she moved in there and was faced with other pressing expenses. The petitioner argues that she was not "at fault" in having been evicted and that, therefore, she should have qualified for enhanced EA assistance (see infra) under the regulations.

ORDER

The Department's decision is affirmed.

REASONS

The issue in this case is whether the petitioner qualifies for the range of aid specified in the EA regulations for individuals with children who qualify for "temporary housing". See W.A.M. § 2813.2. Under that regulation, if the applicant "had no control" over her eviction she may qualify, inter alia, for up to two months of rent payments in permanent housing, a security deposit, moving expenses, and initial fuel and utility payments. The petitioner alleges that she was not "at fault" in her eviction and should, therefore, be granted all the benefits under that regulation, not just the first month's rent the Department granted as an "exception".

It is concluded, however, that the Department and the Board need not reach the issue of "fault". All EA is governed by the provision in W.A.M. § 2800 that such aid "shall be granted to eligible families to meet emergency needs only". The regulation in question, W.A.M. § 2813.2, also reflects this basic eligibility criterion. The first paragraph of § 2813.2 provides, in part:

Temporary housing is intended to provide short term shelter for applicants who are involuntarily without housing through circumstances which the applicant could not reasonably have avoided and for whom permanent housing or alternative arrangements are not immediately available.

(Emphasis added.) The regulation goes on to specify that only security deposits "necessary to obtain permanent housing" may be authorized, as well as moving expenses "as needed", and fuel and utility payments "necessary to enable the family to move into the housing".

In this case, the petitioner does not allege that she needed anything more than the \$750 first month's rent the Department granted her in order to move into and keep her new apartment. Therefore, it need not be determined whether or not she was at fault in causing her previous eviction. W.A.M. §2813.2 does not create an "entitlement" to any benefits beyond those for which an eligible applicant has demonstrated a clear emergency need.

Inasmuch as the petitioner, either at the time she applied for them or at the hearing, did not demonstrate the requisite emergency need for the additional benefits she seeks, the Department's decision in this matter is affirmed. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

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