

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 14,719

)

Appeal of)

)

INTRODUCTION

The petitioner appeals the denial by the Department of Social Welfare of her application for General Assistance/ Emergency Assistance (GA/EA) for emergency housing. The issue is whether the petitioner had an emergency need within the meaning of the pertinent regulations.

FINDINGS OF FACT

The facts, though unusual, are not in dispute. In November, 1996, the petitioner, her husband, and their four children were living in New York City. The petitioner and her husband are originally from Puerto Rico and speak only limited English. The petitioner's husband is a minister in the Pentecostal Church.

In November, 1996, the petitioner's husband accepted a position as pastor of a church in Quebec, and the family moved to Canada with him. Upon their arrival they discovered that Canadian law prevented them from enrolling their children in the local public schools. The family decided that the petitioner would take the four children to live in Burlington, Vermont, where there was a branch of their church, and where they would be allowed to enroll in school, while the husband remained in Canada to work at his ministry.

Upon arriving in Burlington the petitioner sought the assistance of the local pastor of her church, who provided her and her children with a temporary place to stay in his home and helped the children enroll in school. On December 6, 1996, the petitioner applied for GA/EA for temporary housing for her and her children. The Department denied the application determining that the petitioner had not been evicted from her former residence and had voluntarily moved. In a telephone hearing held shortly thereafter the hearing officer declined to grant "expedited" relief based on the fact that the petitioner and her children had adequate temporary shelter (with their pastor).

At the regularly scheduled fair hearing held in this matter on January 22, 1997, the petitioner reported that she and her children had since been able to move into an apartment with donations provided by members of her church, and that her rent was paid through the month of January. The petitioner admitted that if her children had been allowed to enroll in school in Canada she would not have come to Vermont. She did not allege that she was separated from her husband, only that they had agreed that he would stay behind in Canada to continue his ministry. The petitioner maintained, however, that her

husband did not make much money from his ministry other than being provided with a place to live and some basic necessities, and that she and the children needed ongoing assistance to continue living in Vermont.

With the considerable help of the petitioner's Burlington pastor, who was bilingual, the hearing officer and the Department explained to the petitioner that she would have to claim eligibility for ANFC based on either a true separation from her husband or with him on the application as an unemployed parent; and that the latter would require the husband to come to live in Vermont and look for gainful work. The matter was continued to allow the petitioner to speak with her husband about these requirements.

By the time of the rescheduled hearing on February 12, 1997, the petitioner's husband had joined the family in Vermont and they were advised to apply for ANFC, which they said they would do that same day.⁽¹⁾ The hearing officer informed the petitioner that at this time he would rule only on the petitioner's earlier applications for GA/EA.⁽²⁾ On the day of the hearing in February the petitioner's rent had been paid (with church donations) through the end of the month.

ORDER

The Department's decision is affirmed.

REASONS

When the petitioner first applied for GA/EA on December 6, 1996, she and her children were being provided temporary housing by her church pastor. The regulations regarding "temporary housing" include the following provision:

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. . . .

W.A.M. § 2613.2; see also W.A.M. § 2816.2.

The Department denied the petitioner's application finding that she had "voluntarily" left her last permanent residence and, therefore, could have "avoided" her existent situation. Under the above regulation, however, the less problematic basis for denying her application would have been that the petitioner had a suitable "alternative arrangement" to GA/EA temporary housing on the day she applied. See Fair Hearing No. 14,683.

At the time of the petitioner's Fair Hearing on January 22, 1997, she had moved into a permanent apartment and through church contributions had paid the rent through the end of the month. At that time she was seeking payment of the next month's rent.

The GA/EA regulations for "permanent housing" include the following:

Payment may be authorized for the current mortgage or rental period only and shall not be authorized or issued prior to the due date for that period. . . .

W.A.M. § 2613.1; see also W.A.M. § 2813.1. At the time of her hearing in January, and again at her continued hearing in February, the petitioner's rent was paid up through the end of the month.

Thus, at no time when she applied or came in for her hearings was the petitioner in a situation where she was eligible for GA/EA for temporary or permanent housing. Inasmuch as the Department's decision in this matter was in accord with the above regulations, the Board is bound by law to affirm it. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

#

1. Unfortunately, the pastor of the petitioner's church in Burlington had died suddenly during the time between the petitioner's two hearing dates. However, at the February hearing the petitioner was again ably assisted by another bilingual member of her church.
2. The hearing officer explained the petitioner's appeal rights regarding her ANFC application. Having heard nothing more to date from the petitioner, it is assumed that this application was granted.