



not being evicted from her studio apartment. The Department denied the application because the petitioner was presently in an apartment with no imminent threat of being evicted.

3. On March 18, 2005 the petitioner moved into the new two-bedroom apartment. She still has not paid the security deposit on this apartment, but as of the date of the hearing (April 13, 2005) the landlord had taken no adverse action against her.

ORDER

The Department's decision is affirmed.

REASONS

Under Section 2813.2 of the EA regulations, "aid in procurement of permanent housing", which includes rent deposits, is subject to the following conditions:

- (b) Housing deposits or security payments, not to exceed one month's rent, which may be necessary to obtain permanent housing, may be preauthorized. . .

(Emphasis added.)

In this case, it is clear that the petitioner was able to move into her new apartment without any assistance from the Department. To date, she is under no imminent threat of

eviction.<sup>1</sup> Moreover, it is clear that the petitioner was never facing a "court-ordered or constructive eviction" (the Department's initial reason for denial) when she applied for EA on March 16. Even if she was, it cannot be concluded that she met the "necessity" provision of § 2813.2(b), above, to qualify for EA for a deposit. It is, perhaps, fortunate that the petitioner was able to move into the new apartment despite her misunderstanding as to her eligibility for assistance. However, it cannot be concluded that anything in the EA regulations can be viewed as requiring the Department to have paid, or to now pay, her security deposit. Thus, the Board is bound to affirm the Department's decision in this matter. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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<sup>1</sup> If and when she ever is, she can reapply for EA at that time.