

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. B-11/20-712  
 )  
Appeal of )  
 )

INTRODUCTION

The petitioner appeals a decision by the Department for Children and Families (Department) that she is ineligible for the General Assistance (GA) Temporary Housing program for a period of time based on the violation of a motel rule and Department Temporary Housing policy GA-120. The matter was heard via telephone on November 9, 2020. Petitioner appeared for hearing with counsel and a preliminary memorandum was issued by the hearing officer on November 12, 2020, affirming the Department's decision. Petitioner, now pro se, appeals from the preliminary memorandum. The following facts are based on testimony and other evidence presented at hearing along with written documentation from the Department.

FINDINGS OF FACT

1. The Department granted petitioner temporary housing at an area motel from October 29<sup>th</sup> through November 6<sup>th</sup>. Petitioner checked into the motel and received a copy of the

motel's rules at that time. On Sunday, November 1<sup>st</sup> petitioner called 211 to request that she be re-housed at another location. On November 2<sup>nd</sup> the motel notified the Department that petitioner had been issued a Notice to Vacate (NTV) on November 1<sup>st</sup> based on violation of a motel rule.

2. A motel manager testified at hearing that a situation arose on October 31<sup>st</sup> with petitioner, while she was in the public portion of the lobby and/or breakfast room of the motel, being disrespectful to another (male) manager and screaming a vulgar name at one of the housekeepers. The manager had reviewed the motel's logbook about the incident in which the male manager recorded petitioner being disrespectful to him and she spoke directly with the housekeeper who confirmed the incident of petitioner screaming and calling her a vulgar name in a public area of the motel. The manager also testified that after she arrived at work that Sunday a couple of guests who had witnessed the incidents approached her to complain about petitioner's behavior during these incidents. Based on all that information, the manager contacted petitioner in her room and told her that she needed to leave the motel due to her behavior in creating these disturbances. Petitioner was argumentative and called the Police, who subsequently issued

her the NTV on behalf of the motel and escorted her out of the motel.

3. Petitioner had a different account of the incidents. She asserted that (1) three staff people at the front desk had failed to timely attend to her need for food and served spoiled food, and (2) that staff failed to assist her by immediately printing out a bus schedule on the hotel's computer as she requested, although it was printed for her, and (3) staff hesitated to give her the motel office phone to use to call her case worker, although the phone was in fact given to her for her use. Petitioner stated that she does not own a working cell phone but did not explain why she did not use the phone in her room. She denied being disrespectful to the manager or screaming at the housekeeper and calling her a vulgar name.

4. The testimony of the motel manager is found credible. The housekeeper and the male manager had no reason to fabricate the facts presented and other guests voluntarily approached the female manager to complain about petitioner's behavior. However, petitioner's testimony appeared self-serving. At hearing petitioner faulted the behavior of every person she encountered at the hotel, including two female front desk staff people, the male manager, the housekeeper,

and another male guest, and the female manager.

ORDER

The decision of the Department imposing a period of ineligibility (POI) due to petitioner's violation of a motel rule pertaining to disturbing the quiet enjoyment of guests is affirmed.

REASONS

Review of the Department's determination is de novo. The Department has the burden of proof at hearing if terminating or reducing existing benefits; otherwise, the petitioner bears the burden. See Fair Hearing Rule 1000.3.0.4.

On August 11, 2020, the Department promulgated a comprehensive policy, referred to here as the GA Covid-19 Rules, to govern the administration of the "motel voucher program" during the pandemic. The GA Covid-19 Rules include a penalty provision if an individual is issued a Notice to Vacate by a motel due to the violation of a motel rule, as follows:

GA-120 Period of Ineligibility

You will not be eligible to be placed in a hotel/motel by the Department for a period of time if you are asked to leave a hotel/motel for:

. . .

- Disturbing other guests' quiet enjoyment of the property

If it is determined by the Department that you are not eligible for a period, the Department will not pay for you to stay in a hotel/motel during that time. This is called a Period of Ineligibility (POI).

- For a first violation, the POI is 15 days. *You will be rehoused after serving 7 days of the POI if your case worker informs the Department that you are working with them to find permanent housing.*
- For a second and any other violations, the POI will be 30 days.

GA COVID-19 Rules, GA-120 Period of Ineligibility.

<https://dcf.vermont.gov/sites/dcf/files/CVD19/ESD/TempHousing-COVID19.pdf>.

Based on the facts outlined above, the motel had sufficient reason to issue the order to vacate and the Department's decision to impose a period of ineligibility was reasonable. Therefore, the Department was justified in imposing a period of ineligibility under current GA-120 [Period of Ineligibility] based on petitioner's "disturbing other guests' quiet enjoyment of the property."

At hearing, the Department was able to confirm that petitioner was, consistent with the language of GA-120, eligible to have her POI reduced to seven (7) days given her work with a case worker. At hearing, the Department

represented that as of the date of hearing, November 9<sup>th</sup>, petitioner was eligible to reapply for housing as the POI had expired.

Because the POI has now expired, this case would otherwise be moot. However, because GA-120 provides a graduated penalty for a second violation of the policy, the fact that a first offense has occurred would negatively affect petitioner if a second offense were to occur. See *All Cycle, Inc. v. Chittenden Solid Waste Dist.*, 164 VT 428 (1995), at 432 ("The central question of all mootness problems is whether decision of a once living dispute continues to be justified by a sufficient prospect that the decision will have an impact on the parties." (internal citations omitted)) Therefore the case has been considered on the merits.

Therefore, as Department's imposition of a seven (7) day POI is consistent with its Rules, the decision must be affirmed. See 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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