

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. B-12/20-841  
 )  
Appeal of )  
 )

INTRODUCTION

The petitioner appeals a decision by the Department for Children and Families (Department) that he is ineligible for the General Assistance (GA) Temporary Housing program for seven (7) days based on the violation of a motel rule and Department Temporary Housing policy GA-120. The matter was heard via telephone on January 4 and 7, 2021. A preliminary Recommendation was issued by the hearing officer on January 8, 2021. Petitioner appeals that preliminary ruling to the Human Services Board. The following facts are based on testimony and other evidence presented at hearing along with written documentation from the Department and recordings submitted by petitioner.

FINDINGS OF FACT

1. The Department granted petitioner temporary housing at an area motel, the Quality Inn. Petitioner checked into the hotel and received a copy of hotel's rules at that time.

2. On December 29, 2020, the hotel issued a Notice to Vacate (NTV) to petitioner for "disturbing other guests' quiet enjoyment of the property" in incidents from December 27<sup>th</sup> through December 29<sup>th</sup>.

3. A hotel manager testified at hearing that the night manger on duty at the hotel on December 27<sup>th</sup> received a noise complaint from another guest about noise from petitioner's room. The manager contacted petitioner's room to make him aware of the complaint and to request that any undue noise cease. Petitioner was upset by the complaint and went to the front desk to (according to him) to confirm that it was motel management that had called him and also to dispute that he had been unduly noisy and to ask for the identity of the complainant. The hotel manager on duty (a female) reported that she was sufficiently uncomfortable and intimidated by petitioner's raised voice and argumentative attitude toward her that she called her supervisor (who was off duty) to report the incident and also made an entry in the hotel logbook. This incident occurred in a public area of the hotel and was witnessed by another hotel guest who provided a written statement that petitioner was yelling, swearing and being impolite and argumentative with the hotel manager.

4. A second motel manager (male) subsequently talked to the petitioner on December 29<sup>th</sup>. This manager also reported that petitioner was impolite and argumentative with him.

5. Finally, the general manager (who testified at hearing) reported that petitioner was also argumentative with her when they discussed the incident on December 29<sup>th</sup> in a public area of the hotel front desk. As a result of all these incidents, she issued a Notice to Vacate (NTV) to petitioner on December 29<sup>th</sup>. The testimony of the hotel manager is found credible. Her conversation with petitioner (or a portion thereof) is depicted in the last two videos supplied by petitioner.

6. Petitioner's main argument is that the hotel failed to independently investigate the noise complaint and that he had a right to question that lack of investigation. However, petitioner was issued the NTV not only because of the noise complaint on December 27<sup>th</sup> but also based on his behavior in following up on that complaint that was viewed as disruptive by three different hotel managers and a hotel guest who viewed one of the interactions with staff.

7. Based on the facts above, petitioner's behavior disturbed other guests' quiet enjoyment of the property in violation of GA-120 - Period of Ineligibility (POI).

ORDER

The decision of the Department imposing a period of ineligibility (POI) 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.O.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 hotel 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 his POI reduced to seven (7) days given his work with a case manager to obtain permanent housing.

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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