

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. L-11/20-747
)
Appeal of)
)

INTRODUCTION

Petitioner appeals a denial of General Assistance (GA) temporary housing by the Vermont Department for Children and Families Economic Services Division (Department). The issue is whether the petitioner is eligible under the Department's current General Assistance (GA) policy - *General/Emergency Temporary Housing Waiver and Variance of Rules Through March 31, 2021*.

An expedited hearing was held on November 24, 2020. The following facts are adduced from documents submitted by the Department and evidence presented at hearing.

FINDINGS OF FACT

1. Petitioner applied for temporary housing on November 18, 2020, along with her partner. Petitioner indicated on the application, which she signed, that she came to Vermont one (1) month prior to the application.

2. The Department's Benefit Specialist who processed that application testified at hearing that petitioner told

her that she just recently arrived in Vermont from Virginia and that she had left her Section 8 housing there for personal reasons (unspecified). The Benefits Specialist also testified that the Department's case notes indicate that petitioner had previously applied to the Department for housing on November 6th. At that time, petitioner told the Department's representative that she had left Virginia on November 4th and arrived in Vermont on November 5th without a housing plan. The Department denied the application on November 18th based on the Department's GA policy GA-60, *Voluntarily Left a Place Where You Could Have Stayed*, which provides as follows:

The Department won't house you in a hotel/motel if you voluntarily left a place where you could have stayed in the last 90 days – unless you left for health or safety reasons.

3. At hearing, petitioner testified that she was confused when she made the prior statements about coming to Vermont on November 5th and when she submitted the November 18th application that stated that she had been here "one month."

4. At hearing, petitioner confirmed that she left her Section 8 apartment in a senior housing complex in Virginia Beach but said that she left there sometime in July 2020, and

came to Vermont on the bus, an 18-hour trip. Petitioner stated that before she left her apartment, she spoke to the apartment manager (not Section 8 staff) to inquire about transferring her voucher to Vermont but was told that there were no vouchers available. Petitioner testified that she chose to leave her apartment because of (1) the existence of bedbugs in a neighboring apartment, (2) the presence of mold in the vents in her apartment, and (3) drug activity at the apartment complex. Petitioner testified that the mold was a problem for her due to being a cancer survivor with low immunity. She stated that the management was non-responsive to her requests to fix any of these problems. She testified that the drug activity frightened her and caused her anxiety. A case worker working with petitioner testified that petitioner also told him on November 18th that she came to Vermont in July.

5. Petitioner appeared to be very confused during her testimony. Whatever the cause, petitioner was relatively consistent in what she told the Department on two occasions about coming to Vermont in early November and that evidence is found to be more credible than petitioner's testimony at hearing. While petitioner may have told the caseworker (on November 18th) that she came to Vermont in July, she did so on

the same date that she was denied by the Department for voluntarily leaving her prior residence within the last 90 days. Based on all the evidence presented, petitioner voluntarily left her housing in Virginia within the last 90 days.

6. The next provision of GA-120 addresses whether petitioner left her prior residence for a health or safety reason. Of the problems identified by petitioner at her residence, petitioner failed to present sufficient evidence that the issues were health or safety violations sufficient to force a person to leave a residence. With respect to the bedbug problem, petitioner stated that an exterminator had come to the neighboring apartment and there was no evidence that bedbugs were a problem in her apartment. With respect to the presence of mold in the vent(s) in her apartment, while mold can be an issue in any home vent where moisture may be present, there are solutions to that problem (written notice to the landlord, contacting the City health inspector or local Department of Health, etc.) and petitioner did not describe any efforts in that regard. Finally, while drug activity on the site of her apartment complex would undoubtedly be a concern, petitioner did not present sufficient evidence that it had personally affected her to

the degree that she was forced to leave her residence. The evidence does not support a finding that petitioner was forced to leave her Virginia residence due to a health or safety violation.

ORDER

The Department's decision is affirmed.

REASONS

Review of the Department's determination is *de novo*. An applicant appealing an initial denial, as opposed to a termination of existing benefits, has the burden of establishing eligibility by a preponderance of evidence. See Fair Hearing Rule 1000.3.0(4).

Due to the COVID-19 pandemic, the Department has adopted new General Assistance (GA) temporary housing policies to protect the health of safety of Vermonters in need of emergency housing assistance. See *General/Emergency Temporary Housing Waiver and Variance of Rules Through March 31, 2021 (COVID-19 Rules)*.

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

The COVID-19 Rules provide that an applicant may be denied temporary housing if the person "voluntarily" left a

prior residence where they could have continued to stay within the last 90 days. GA-60.

A "voluntary" act is defined, in pertinent part, as an act "done, given, or acting of free choice."

<https://www.merriam-webster.com/dictionary/voluntary#:~:text=voluntary%20intentional%20and%20deliberate%20mean,Joining%20the%20club%20is%20voluntary.>

Here, petitioner made a choice to leave a residence for which she had a Section 8 voucher to assist in the costs of the rental and come to Vermont without a housing plan. The evidence does not support a finding that she was forced to leave her prior residence due to a health or safety reason.

Therefore, the Department's decision to deny petitioner temporary housing assistance is consistent with the COVID-19 Rules and must be affirmed¹. See 33 V.S.A. § 3091(d); Fair Hearing Rule No. 1000.4D.

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¹At hearing, petitioner and her case manager both testified that the local shelter is not officially open, but that petitioner and her partner have been allowed to stay there since she was denied temporary housing through the Department. It should be noted that GA-50 provides that if there is space available in a shelter, the Department will not provide a motel voucher - this would be an alternate reason for denial of temporary housing.