

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. R-01/22-061
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Appeal of)
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INTRODUCTION

Petitioner appeals a decision by the Department for Children and Families ("Department") that she is ineligible for General Assistance ("GA") Emergency Housing for 15 days, for alleged conduct at the motel in which she was staying before being asked to leave. The following is based on an expedited telephone hearing held February 8, 2022. A motel manager where petitioner had been staying before she was asked to leave and a policy specialist for the GA program testified at hearing for the Department; petitioner testified on her own behalf.

FINDINGS OF FACT

1. Petitioner is homeless; her most recent grant of temporary housing from the Department was on January 11, 2022, through (and checking out on) February 8, 2022. Pursuant to this grant petitioner was placed at a motel in the Bennington area (petitioner is from the Rutland area).
2. Petitioner was subsequently asked to leave the

motel on January 28, 2022, for two separate reasons: (1) creating a safety hazard by allegedly taping over her room's fire alarm; and (2) the alleged "sale, distribution, or manufacturing of illegal drugs." Petitioner was given a "Notice to Vacate" by the motel manager on the same date she was asked to leave, January 28, 2022. The police were called to the motel, although there is no evidence that petitioner caused any issues after being asked to leave the motel or that she was arrested on any charge.

3. As a result of being asked to leave the motel, the Department disqualified petitioner from GA emergency housing for a period of 15 days.¹

4. The Department presented credible testimony from the motel manager that petitioner had placed tape over the fire alarm in her room and that there were several cigarette butts in an ashtray discovered in petitioner's room. In addition, credible testimony from the manager established that drug paraphernalia (hypodermic needles) and what appeared to be an illegal substance (a "line" comprised of a

¹ Although this was petitioner's second disqualification for a motel ejection, a Department worker mistakenly informed her that the disqualification was for 15 days (under normal operation of the rules, petitioner would have faced a disqualification of 30 days for a second disqualification). At hearing, the Department explained that it would honor the original communication to petitioner that she was disqualified for 15 days.

powdery substance) were also found in her room. The Department's evidence additionally established that there were unauthorized guests regularly coming from and going to petitioner's room.

5. Petitioner testified that the individuals coming to and going from her room were her brother and his girlfriend coming to pick her up and drop her off, as she regularly traveled to and spent her days in the Rutland area. Petitioner denied any illegal drug use or smoking in her room. Petitioner's testimony did not directly address the allegation that she had taped over her fire alarm.

6. The credible evidence establishes that petitioner taped over the fire alarm in her room and was smoking in her room, creating a material safety hazard in her room and at the motel.

7. Although not directly relevant to the outcome, the Department had also determined that, by the time of hearing, petitioner had "served" 11 of the 15 days of her disqualification, because she had not been housed at all by the Department from January 28-January 31, 2022, and since January 31, 2022, had been allowed to stay in a room at a different motel with someone else who was also on an Emergency Housing voucher.

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.

The Department's Emergency Housing rules contain a provision that disqualifies individuals asked to leave their motel for certain specified reasons:

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

- Violent criminal behavior;
- Attempted violent criminal behavior;
- Theft of a \$75 or greater value from Hotel/motel or guests;
- Creating safety hazards (examples: disabling smoke detectors, placing tape over a smoke detector, using appliances or heaters which create a fire hazard, blocking exits, disabling any type of alarm);
- Threatening other guests or motel staff, or having guests that threaten others;
- Sale, distribution, or manufacturing of illegal substances; or

- Destruction of property (intentional damage or misuse)

For other violations there is no period of ineligibility, however the hotel/motel may require you to leave and will no longer accept you as a guest. In these situations, the Department will try and book you at a new location, but the Department cannot guarantee that it will be able to secure a new reservation.

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.
- For a second and any other violation, the POI is 30 days.

Emergency Housing Waiver and Variance of Rules, § EH-765

(emphasis in original).²

The factual record establishes that the motel had sufficient basis to ask petitioner to leave and at least one of the reasons for her ejection also supports the Department's imposition of a POI under EH-765 for "[c]reating safety hazards...[such as] placing tape over a smoke detector." See *id.*³

As such, the Department's imposition of a POI is consistent with the rules and must be affirmed. See 3 V.S.A.

² See <https://dcf.vermont.gov/sites/dcf/files/CVD19/ESD/Emergency-Housing-Rules-11.04.21.pdf>.

³ Whether petitioner was engaged in the sale or distribution of illegal drugs need not be reached.

§ 3091(d), Fair Hearing Rule No. 1000.4D.

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