

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. T-11/21-679
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Appeal of)
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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 15-day "period of ineligibility" (POI) based on the violation of Emergency Housing (Variance and Waiver of Rules) Rule EH-765 Period of Ineligibility. The appeal was heard via telephone on November 22, 2021. The following facts are based on testimony presented at hearing along with written documentation from the Department.

FINDINGS OF FACT

1. The Department has provided housing to the petitioner for some time. Most recently petitioner was placed at the West Road Motel in Bennington.

2. The motel manager issued a Notice to Vacate (NTV) based on her finding that petitioner had threatened motel staff. The NTV completed by the manager also noted other

problems, such as petitioner and her partner yelling and fighting during the late hours of the night which disturbed other guests and having a pet in her room that was not authorized. It was also reported that petitioner's room was left in extreme disarray and was very unclean. However, those issues, while sufficient for the motel to ask petitioner to leave, are not a basis for disqualification for housing under EH-765 and so are not relevant here.

3. The motel manager testified primarily about the disturbances from petitioner's room. However, a member of the motel's housekeeping staff also testified at hearing. She stated that petitioner verbally threatened her, using profanity, and threatened to beat her. She indicated that she was very afraid of what petitioner would do next, and avoided further contact with her, and reported the conduct to the motel manager, who recommended that she report the conduct to the Police, which she did. The manager confirmed that the housekeeper had reported the behavior to her. The housekeeper expressed her concern in an emotional and credible manner. Petitioner generally denied any problem with her own behavior while she stayed at the motel and blamed others for any conflicts that had occurred. The

housekeeper's testimony is found more credible under the circumstances presented.

4. The motel manager issued the NTV on November 15th and forwarded the NTV to the Department as petitioner had temporarily left the motel. The Department then mailed the NTV to petitioner at the address she had provided. The Department also verbally told the petitioner on November 15th that the NTV had been issued and that it was imposing a 15-day period of ineligibility. Petitioner requested a fair hearing, and she was housed pending the decision.

5. Under the preponderance of the evidence standard and considering the totality of the evidence, the motel's finding of a rule violation for threatening motel staff was reasonable and the Department's imposition of a Period of Ineligibility (POI) under GA-120 is justified on that basis.

6. The Department also presented testimony from a Senior Benefit Program Specialist that this was a first offense under EH -765 and the POI would be 15 days from the issuance of a ruling in the appeal.

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 1000.3.0.4.

The rules governing the General Assistance housing problem during the period in question provide for a POI if an individual is issued a Notice to Vacate by a motel due to the violation of a motel rule, as follows:

EH-765 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:

. . .

- Threatening other guests or motel staff. . .

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 violations, the POI will be 30 days.*

Emergency Housing Waiver and Variance of Rules (updated November 4, 2021), EH-765 Period of Ineligibility.

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

Based on the facts outlined above, the motel had sufficient reason to issue the NTV. Therefore, the Department was justified in imposing a period of ineligibility under EH-765 [Period of Ineligibility] based on petitioner's conduct.

Therefore, as the Department's imposition of a 15-day POI¹ is consistent with its Rules, the decision must be affirmed². See 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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¹While petitioner's POI will have ended by the date of the Board's January 2022 meeting and would otherwise be moot, EH-735 contains a graduated penalty and therefore if a further POI is imposed in the future, the penalty for that would be increased because of this case. Therefore, the case is referred to the Board for review.

²Petitioner has reported that she does not have an email address, therefore, the Hearing Officer's Recommendation will be mailed to petitioner by USPS. In order to ensure delivery of the Recommendation prior to imposition of the POI, the POI will not take effect until three (3) days after the date of the mailing of the Recommendation.