

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. A-07/16-698
)
Appeal of)
)

INTRODUCTION

Petitioner appeals a denial of General Assistance ("GA") temporary housing by the Vermont Department for Children and Families ("Department"). The following facts are adduced from an expedited hearing held July 11, 2016.

FINDINGS OF FACT

1. Petitioner applied for GA temporary housing on June 30, 2016. Petitioner receives Social Security Disability Income ("SSDI") and therefore meets "threshold" eligibility for temporary housing under the GA vulnerable populations rule, but was denied assistance for "causing his own eviction" from his last permanent housing.

2. Petitioner states that he is currently "living outside" and appealed his denial on July 5.

3. Petitioner's last permanent housing was an apartment into which he moved sometime in 2015, subject to a long-term lease. Petitioner received assistance from state and local agencies - including a housing case manager - in

leasing the apartment. An element of that assistance was a "housing plus" voucher which limited his portion of the rent to 30 percent of his income.

4. Petitioner receives approximately \$1,300 per month in SSDI and at the time of his application had been working full-time for the previous several months, with income of approximately \$400 per week. Petitioner did not report this income on his application, and states that he has since stopped working, although he has not submitted an "end of employment" form to the Department, as would normally be required, from his employer.

5. Sometime around the end of last year or the beginning of this year, petitioner began withholding his rent due to his perception of problems with his apartment (petitioner alleged at hearing these issues included black mold and a non-working refrigerator and stove).

6. Petitioner's landlord eventually filed an eviction action against him in or around February of 2016, for nonpayment of rent. He was represented by counsel in this proceeding and the parties ultimately stipulated to a writ of possession, giving possession of the premises to the landlord as of July 1, 2016. The stipulation does not address or refer to any habitability issues raised by petitioner.

7. Petitioner contends that his apartment was inspected twice by a housing inspector with the Vermont State Housing Authority, but that the judge in his eviction proceeding refused to compel production of this information and/or consider his claim of habitability issues.

8. Petitioner's bare claim of habitability issues in his apartment is not credible. During the hearing, petitioner was encouraged to provide any additional information he may have about those issues, as well as have his attorney for the eviction proceeding and his housing case manager contact the Board and/or the Department with any additional information.¹

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).

¹ To date, no additional information has been received.

The Department's temporary housing program is comprised of two distinct categories of eligibility. The "Temporary Housing for Vulnerable Populations" rule provides up to 28 nights of housing assistance. See GA Rules § 2652.3. Moreover, the "Temporary Housing in Catastrophic Situations" rule allows up to 84 nights of housing for individuals in defined catastrophic circumstances. See GA Rules §§ 2621 and 2652.2.²

Petitioner meets threshold eligibility under the vulnerable populations rule as he receives SSDI. See GA Rules § 2652.3. Moreover, a household subject to court-ordered eviction may potentially meet catastrophic eligibility. See GA Rules § 2621.D. The issue in dispute is whether petitioner's loss of his apartment for nonpayment of rent renders him ineligible for or disqualifies him from assistance under the rules.

With respect to that issue, the GA rule regarding temporary housing for vulnerable populations includes a six-month disqualification period as follows (in pertinent part):

Applicant households that have caused their own loss of housing within the past 6 months shall not be eligible

² It is noted, though not material here, that the rules do not allow vulnerable and catastrophic assistance to be consecutive; that is, total assistance is limited to 84 nights in a 12-month period. See GA Rules § 2652.3.

for temporary housing. Examples of causing one's own loss of housing include, but are not limited to:

- Court-ordered eviction, subject to the limitation set forth in rule 2621(D);

* * * *

GA Rules § 2652.3.

The rule on catastrophic eligibility, referenced in the above vulnerable populations rule, provides that:

For the purposes of this section, catastrophic situations are limited to the following situations. . .

. . .D. A court-ordered eviction or constructive eviction, as defined at rule 2622, due to circumstances over which the applicant had no control. A court-ordered eviction resulting from intentional, serious property damage caused by the applicant, other household members, or their guests; repeated instances of raucous and illegal behavior that seriously infringed on the rights of the landlord or other tenants of the landlord; or intentional and serious violation of a tenant agreement is not considered a catastrophic situation. *Violation of a tenant agreement shall include nonpayment of rent if the tenant had sufficient income to pay the rent and did not use that income to cover other basic necessities or withhold the rent pursuant to efforts to correct substandard housing.*

GA Rules § 2621.D (emphasis supplied).

The vulnerable and catastrophic eligibility rules thus overlap on the question of whether a court-ordered eviction for nonpayment of rent may disqualify an applicant household. Petitioner makes no claim (nor does the evidence support such) that he did not have the means to continue paying the

rent while meeting his basic needs; rather, he stopped paying his rent (allegedly) due to perceived habitability issues. However, petitioner has not sustained his burden of establishing those habitability issues, and, under these circumstances, the Department's determination that he is "at fault" for losing his housing is otherwise warranted under the rules. *Compare e.g.,* Fair Hearing No. B-08/13-619 (applicant established he should not be held at fault for loss of apartment due to nonpayment of rent).

The Department's denial of temporary housing assistance is therefore consistent with the rules and must be affirmed. See 33 V.S.A. § 3091(d); Fair Hearing Rule No. 1000.4D.

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