

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 18,090
)
Appeal of)

INTRODUCTION

The petitioner appeals the decision by the Department of Prevention, Assistance, Transition, and Health Access (PATH) denying his application for General Assistance (GA) benefits. The issue is whether the petitioner is facing a "catastrophic situation" as defined by the pertinent regulations.

FINDINGS OF FACT

1. The petitioner is a single man who receives Social Security disability benefits of \$871 a month.
2. Since October 2002 the petitioner has sublet a room in an apartment which now costs \$300 a month. The petitioner maintains that he applied for and was denied GA in August 2002 in order to move to another place. He stated that he maintained at the time that the apartment had no heat. Neither the Board nor the Department has any record that the petitioner appealed that decision.
3. On October 23, 2002 the petitioner again applied for GA to move to another place. The Department denied this application because it did not find that the petitioner was

facing an emergency need for housing. The petitioner appealed this decision.

4. At a hearing held on November 22, 2002, the petitioner alleged that the person from whom he was subletting his room in the apartment had asked him to move. The petitioner admitted, however, that the lessor had not taken any legal or constructive steps to evict him. The petitioner stated that the apartment now had heat, but without providing specifics he alleged that the apartment had "structural problems". The petitioner requested a continuance to consult with an attorney.

5. At a hearing held on December 20, 2002, the petitioner stated that he had consulted with an attorney but that his situation was unchanged since the date of the previous hearing. The petitioner stated that he feels he should receive GA because of child abuse and marital problems he had several years ago.

ORDER

The Department's decision is affirmed.

REASONS

The General Assistance regulations provide that households with income in excess of the Reach Up Financial Assistance (RUFA) maximum can only receive additional

financial assistance if they are experiencing a "catastrophic situation". See W.A.M. 2600 et. seq. The petitioner's income is well in excess of the RUFA payment level for a one-person household. W.A.M. §§ 2244-2249. The GA regulations define catastrophic situation in the context of loss of housing as follows:

Catastrophic Situations

Any applicant who has an emergency need attributable to one of the following catastrophic situations may have that need met within General Assistance benefits standards. Payment maximums as specified in sections 2611 through 2626 apply to these needs. Eligibility criteria are as follows:

- The income test at 2600 C.1 is not applicable.
- All available income and resources must be exhausted. The resource exclusion at 2600 C.5.b. does not apply if an individual qualifies only under catastrophic rules.
- Alternatives must be explored (for example, private and community resources, family, credit).

Subsequent applications must be evaluated in relation to the individual applicant's potential for having resolved the need within the time which has elapsed since the catastrophe to determine whether the need is now caused by the catastrophe or is a result of failure on the part of the applicant to explore potential resolution of the problem.

. . .

- b. A court-ordered or constructive eviction due to circumstances over which the applicant had no control. An eviction resulting from intentional, serious property damage caused by the applicant,

other household members or their guests; repeated instances of raucous and illegal behavior which seriously infringed on the rights of the landlord or other tenants of the landlord; or intentional and a serious violation of a tenant agreement is not considered a catastrophic situation. Violation of a tenant agreement shall not include nonpayment of rent unless the tenant had sufficient financial ability to pay and the tenant did not use the income to cover other basic necessities or did not withhold the rent pursuant to efforts to correct substandard housing.

. . .

W.A.M. 2602.

The regulations further provide:

Constructive eviction is defined as any disturbance caused by a landlord, or someone acting on the landlord's behalf, that makes the premises unfit for occupation. . .

A situation in which the landlord has not provided heat, utilities, or water within a reasonable period of time and there is an agreement to furnish these items shall be considered a constructive eviction when the applicant is pursuing legal resolution of these offenses

. . .

As noted above, the petitioner's allegations in this matter do not indicate that he is facing the kind of housing situation contemplated by the above regulations. Thus, it must be concluded that the requirements for cash assistance under the catastrophic situation provisions of GA have not been met.

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