
J.C. v. Monmouth County Board of Social Services
Cite as 2 *N.J.A.R.* 173

J. C.,
Petitioner,
v.
MONMOUTH COUNTY BOARD OF SOCIAL SERVICES,
Respondent.

Decided September 19, 1980

Initial Decision

SYNOPSIS

Petitioner a recipient of assistance under the Aid to Families with Dependent Children program, was denied emergency shelter assistance by the local county welfare agency.

After a hearing, the administrative law judge found that petitioner had been forced to sell her home to a realtor in August of 1980 to avoid a sheriff's sale scheduled because her mortgage payments were 23 months in arrears. The judge found that petitioner realized she would be unable to pay the arrearage as early as April 1980 and with the assistance of the local agency had been looking for replacement housing since that time without success. Although the judge found that petitioner and her children were without a permanent home, he concluded that petitioner's loss of shelter was caused by her failure to pay her mortgage, a condition over which she had control and thus within the terms of *N.J.A.C.* 10:82-5.10(c) the denial of emergency assistance was correct.

GOLDBERG, ALJ:

Petitioner requests relief from the administrative action of the Monmouth County Board of Social Services denying emergency shelter assistance, pursuant to *N.J.A.C.* 10:82-5.10(c). Petitioner requested a hearing on September 9, 1980 and the matter was transmitted to the Office of Administrative Law for determination as a contested case, pursuant to *N.J.S.A.* 52:14F-1 *et seq.*

At issue is the agency's decision denying emergency shelter assistance because petitioner is alleged to be in an emergent situation which she could have prevented. The agency relied upon *N.J.A.C.* 10:82-5.10(c) which provides that emergency shelter assistance may be granted "because of an

emergent situation over which they had no control or opportunity to plan in advance the eligible unit is in a state of homelessness and the providing of shelter is necessary for health and safety.”

The facts of the matter are not disputed. Petitioner receives a monthly Assistance for Families with Dependent Children (AFDC) grant for herself and five eligible children of \$489. The household also has a Food Stamp Program (FSP) coupon allotment of \$198 per month. On August 29, 1980 just prior to a scheduled sheriff's sale, petitioner sold her home of 13 years for \$27,000 to a realtor. From information on the settlement sheet petitioner was to have realized \$2,390.62. This did not happen. She received only \$500 at closing from the realtor and on September 2, 1980, \$200 from her attorney. Petitioner admitted that the sheriff's sale of her house was scheduled because mortgage payments were 23 months in arrears (over \$5,000). Petitioner realized that she could not satisfactorily cure the arrearage and would have to seek alternate shelter as early as April 1980. The agency had been assisting petitioner to find suitable housing since April without success.

On August 30, 1980, one day after the closing on her house, petitioner and her five children were evicted from the premises. After spending two nights in a car, petitioner obtained a room at the Sands Motel on September 1, 1980 at a rental of \$32.55 per day. Three children who had been living with friends then joined their mother and two siblings at the motel. The landlord discovered that six people were living in one room and forced the family to rent two rooms at \$58.80 per day beginning September 15, 1980.

Petitioner's available resources in addition to those already identified include \$1,635.10 from an insurance settlement for damages resulting from a fire. These funds were issued by a sight draft not negotiable until September 21, 1980.

Based upon the foregoing I **FIND**:

1. Petitioner, an AFDC recipient, and her five children were evicted from her home on August 30, 1980.
2. Petitioner sold her home to a realtor on August 29, 1980 to avoid a sheriff's sale.
3. Petitioner had been 23 months in arrears on her mortgage payments (over \$5,000).
4. In April 1980 petitioner recognized that she was going to lose her home and has been working with agency housing unit to find alternate shelter.
5. Petitioner received \$200 from her attorney on September 2, 1980 and \$500 from the realtor at closing.
6. Petitioner received her September AFDC check of \$489 and a Food Stamp Program coupon allotment of \$198.

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7. Petitioner received a \$200 shelter deposit refund on September 12, 1980.

8. Petitioner received a draft in the amount of \$1,635.10 from an insurance company for damages incurred in a fire. The proceeds of the draft do not become available until September 21, 1980.

9. Petitioner was living in a motel room from September 1, 1980 to September 15, 1980.

10. Petitioner is now living in two motel rooms at a rental of \$58.80 per day.

Based upon the facts presented and the regulation previously cited, I **CONCLUDE** that petitioner's loss of shelter was caused by her failure to pay her mortgage, a condition over which she had control.

I also **CONCLUDE** that petitioner has sufficient resources to maintain the family in the motel for a continued limited period of time.

Therefore, the action of the Monmouth County Board of Social Services denying petitioner emergency shelter assistance is **AFFIRMED**.

After reviewing this Initial Decision, the Director of the
Division of Public Welfare
on October 10, 1980 issued the following Final Decision:

Having reviewed the Initial Decision and any exceptions or replies submitted, I hereby adopt the decision of the administrative law judge in the above captioned case as the Final Decision.