

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-18720
Issue No.: 5026
Case No.: [REDACTED]
Hearing Date: March 31, 2011
DHS County: Wayne (82-76)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant [REDACTED] request for a hearing. After due notice, a telephone hearing was held on March 31, 2011. Claimant appeared and testified. [REDACTED]

[REDACTED] appeared and testified for the Department of Human Services (DHS).

ISSUE

Whether Claimant is eligible for State Emergency Relief (SER) benefits for relocation services?

FINDINGS OF FACT

The Administrative Law Judge, based on competent, material, and substantial evidence in the record and on the entire record as a whole, finds as fact:

1. On September 20, 2010, the State of Michigan [REDACTED] entered a Judgment: Landlord-Tenant against Claimant, stating that the landlady, [REDACTED], had a right to possession of the premises and that an eviction order would be issued if Claimant did not pay the amount due or move out by October 4, 2010.
2. Claimant was able to make arrangements with the landlady to pay part of his rent and was not evicted.
3. Claimant has not received an eviction order or court summons regarding eviction.

4. On December 17, 2010 Claimant applied to DHS for SER assistance with his back rent arrearages.
5. On January 22, 2011, DHS denied SER benefits to Claimant because he did not have a court-ordered eviction notice.
6. Pursuant to DHS Emergency Relief Manual (ERM), Item 303, "Relocation Services," a Judgment: Landlord-Tenant is not acceptable verification of homelessness.
7. On February 1, 2011, Claimant filed a notice of hearing request with DHS.

CONCLUSIONS OF LAW

SER was established by 2004 Michigan Public Acts 344. The SER program is administered pursuant to MCL 400.10, *et seq.* and Michigan Administrative Code Rules 400.7001-400.7049. DHS' policies are found in ERM. ERM is available online at www.michigan.gov/dhs-manuals.

ERM contains the policies and procedures that DHS officially created for its own use in the SER program. While the manual is not law created by the U.S. Congress or the Michigan Legislature, it constitutes legal authority which DHS must follow. It is to ERM that I look now in order to see what policy applies to this case.

In this case, the Department has cited ERM 303, "Relocation Services," as authority for the denial of Claimant's application. ERM 303, "Relocation Services," states that the purpose of the procedure is "to resolve or prevent homelessness." ERM 303, p. 1.

I agree that ERM 303 is the appropriate legal reference by which to evaluate the agency's actions in this case. In ERM 303, DHS spells out its requirements and procedures for assisting homeless, or potentially homeless, customers with rent, security deposits, moving expenses, etc.

The first ERM requirement to qualify for SER is verification of homelessness from DHS customers. If the client is not currently homeless, the client must present an eviction order or a court summons regarding eviction. ERM 303 sets out specifically what types of documents are suitable for this verification responsibility. ERM 303 specifically states that a demand for possession based on nonpayment of rent is not an acceptable verification document to qualify a customer for emergency relocation services.

In this case Claimant presented to DHS a document called a Judgment: Landlord-Tenant. The Judgment states:

TO THE DEFENDANT [TENANT]:

- 4.a. An order evicting you will be issued unless you pay the plaintiff [landlord] or court the amount due in item 2.c. above or unless you move out on or before 10-4-10.
- b. An order evicting you will be issued on or after _____ unless you move.

Department Exhibit 1, p. 25.

In reaching my decision I have reviewed all of the testimony and evidence in this case. I find and determine that the Judgment Claimant received is not an eviction notice or summons for an eviction, but a Judgment that states that the owner has a right to possession, and, that the tenant owes money to the owner. I do not find that the September 22, 2010, Judgment is an eviction notice or an eviction summons as contemplated by ERM 303.

Rather, I understand the Judgment to be a legal notice informing the recipient that some legal action may take place in the future. The Judgment may serve as the basis for legal action to be taken at a future date. I find and determine that the Judgment does not create the type of emergency situation, or threat of one, for which SER can be received.

Accordingly, I find and determine that Claimant's request for SER was premature because he was not in an emergency situation as described by ERM 303, although he may become eligible in the future if he is served with an eviction notice. I find and determine that DHS properly denied SER to Claimant because he was not in an emergency situation as defined by ERM 303. ERM 303, p. 5.

In conclusion, based on the findings of fact and conclusions of law, I conclude and decide that DHS is AFFIRMED. IT IS ORDERED that DHS need take no further action in this matter.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, AFFIRMS the DHS denial of SER to Claimant. IT IS ORDERED that DHS need take no further action in this matter.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 11, 2011

Date Mailed: April 13, 2011

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

JL/pf

cc:

