



University of Tennessee, Knoxville
**Trace: Tennessee Research and Creative
Exchange**

Tennessee Department of State, Opinions from the
Administrative Procedures Division

Law

8-22-2008

Tennessee Housing Development Agency, Petitioner, v. Dennecia Stinson, Respondent

Follow this and additional works at: http://trace.tennessee.edu/utk_lawopinions

 Part of the [Administrative Law Commons](#)

This Initial Order by the Administrative Judges of the Administrative Procedures Division, Tennessee Department of State, is a public document made available by the College of Law Library, and the Tennessee Department of State, Administrative Procedures Division. For more information about this public document, please contact administrative.procedures@tn.gov

BEFORE THE TENNESSEE HOUSING DEVELOPMENT AGENCY

IN THE MATTER OF:

**Tennessee Housing Development
Agency**
Petitioner

v.

Dennecia Stinson
Respondent

DOCKET NO: 32.00-099132J

INITIAL ORDER

This contested case was heard in Knoxville, Tennessee, on August 22, 2008, before Ann M. Johnson, Administrative Judge, assigned by the Secretary of State to sit for the Tennessee Housing Development Agency. The Petitioner was represented by Bruce Balcom, Assistant General Counsel. The Respondent Dennecia Stinson appeared on her own behalf, waiving legal counsel.

The issue in this matter concerned the Petitioner's request to terminate the rental assistance provided through the Agency to the Respondent. After consideration of the evidence and the arguments of the parties, it is determined that the request should be denied, and the Respondent's assistance should continue. This decision is based upon the following.

FINDINGS OF FACT

1. For some time the Respondent has received Section 8 rental assistance for her household, which includes herself and four children. Prior to the present issue, the Respondent

had always been in compliance with program rules. Her rental assistance was renewed by application dated March 13, 2008.

2. During the yearly recertification for rental assistance, it was determined that, beginning March 1, 2008, the Respondent had added another household member, Melvin Roper, to her food stamp assistance program through the Department of Human Services (DHS). Mr. Roper is the father of the Respondent's one year old child, but does not reside with the Respondent and her family. The Respondent had not listed Mr. Roper on her rental assistance renewal application of March 13, 2008. Participants in the program are required to report any changes in household composition; furthermore, a recipient's information, including household composition, must be consistent in the housing program and the food stamp program. Because of the inconsistency in the Respondent's household composition lists, the State proposed to terminate the Respondent's rental assistance.

3. Since Mr. Roper assists with the support of the children, the Respondent did not want him to be legally required to pay child support for his one year old child. An employee of DHS informed the Respondent that there must be a legal child support order unless Mr. Roper were added to the family's food stamp program list. The DHS worker suggested that Mr. Roper be added to the food stamp benefits so that he could avoid legal action. The DHS worker never asked whether Mr. Roper resided with family. The Respondent was not told, nor did she understand, that he must reside with the family to be added to the DHS household unit or that this circumstance would have any affect upon her rental assistance through the Section 8 program.

4. An informal hearing concerning rental assistance was held on April 23, 2008. The Respondent explained that Mr. Roper does not reside with the family, although he does help

with the children's support. She stated that it is not her wish that he be legally required to pay child support because she feels that he already gives the family adequate support. However, since she now understood the requirements of both programs, she had removed Mr. Roper from the DHS food stamp household prior to the hearing on April 23, 2008, even though this change will require court ordered child support. The Respondent notified the hearing officer at the hearing that Mr. Roper had been removed from her DHS food stamps household list.

5. After the informal hearing on April 23, 2008, the hearing officer issued a letter, dated May 2, 2008, which overturned the Respondent's housing termination, with the following caveat:

Therefore, I am overturning your termination conditional that you are completely in compliance with your program within fourteen (14) days from the date of this letter [May 2, 2008]. This includes, but is not limited to, having Mr. Roper removed from your household with DHS. You must do this even if it means that Mr. Roper will be required to pay child support through the court system.

. . .

Please contact your specialist within fourteen (14) days to schedule a new appointment and/or determine any action that must be taken to reinstate your assistance.

EXHIBIT 5.

6. The Respondent failed to contact her specialist within 14 days as requested in the hearing results letter of May 2, 2008. The Respondent explained that she did not think it was necessary since her rental assistance had been reinstated, she had previously removed Mr. Roper from her household list and notified the hearing officer of this change, and she did not understand that she was required to contact her specialist since the conditions were previously satisfied. Furthermore, since the housing agency had access to DHS data, the Respondent believed that the agency would verify the removal of Mr. Roper.

RELEVANT LAW

1. The Tennessee Housing Development Agency (THDA) Rental Assistance Program qualifies as a Public Housing Authority (PHA) under Section 8, Tenant Based Assistance: Housing Choice Voucher Program, as found in the Code of Federal Regulations, 24 CFR 982.

2. According to federal regulations, participants in the Section 8 housing assistance program “must supply any information that the PHA . . . determines is necessary in the administration of the program.” 24 CFR 982.551(b).

3. “Any information supplied by the family must be true and complete.” 24 CFR 982.551(b)(4).

4. According to 24 CFR 982.551(h)(2), an assistance recipient must notify THDA of changes in household composition:

The composition of the assisted family residing in the unit must be approved by the PHA. . . . The family must request PHA approval to add any other family member as an occupant of the unit.

5. The PHA may terminate rental assistance for several stated reasons, including violation of “any family obligations under the program.” 24 CFR 982.552(c)(i). These responsibilities include notification of a change in the family composition.

6. The PHA has some discretion in its decision to terminate rental assistance:

(2) *Consideration of circumstances.* In determining whether to deny or terminate assistance because of action or failure to act by members of the family:

(i) The PHA may consider all relevant circumstances such as the seriousness of the case, the extent of participation or culpability of individual family members, mitigating circumstances related to the disability of a family member, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure.

ANALYSIS and CONCLUSIONS OF LAW

In considering the totality of the circumstances present in this case, it is determined that the Respondent's rental assistance should not be terminated. The Respondent added Mr. Roper to her food stamps case upon the advice of a DHS worker. She was not told that this change signified that Mr. Roper lived with her or that it would affect her rental assistance. When the Respondent was made aware of these facts, she immediately removed Mr. Roper from her food stamps case and notified the hearing officer on April 23, 2008, that this action was taken. It is clear from the facts of the case and from the demeanor of the Respondent at the hearing that she never intended to mislead authorities in either program or to receive assistance to which she was not entitled.

The State argued that the Respondent had the burden to show THDA that she had removed Mr. Roper from her household list; since she did not present such documentation, it is proper to terminate her assistance. However, the facts show otherwise. The letter of May 2, 2008 states that the continuation of rental assistance was conditioned upon her compliance within 14 days of that date. Since the Respondent had already complied, and had notified the hearing officer that she had done so, she reasonably felt that she had no additional obligations in this regard. Even though, later in the letter, the Respondent was asked to "[p]lease contact your specialist within 14 days," there is nothing in the letter to suggest that continued assistance was also conditioned upon this action. Furthermore, since the Respondent had rectified the problem with her household composition list and her rental assistance had not been terminated, she reasonably felt there was no longer a reason to contact her specialist.

Additional support for this decision is found in the federal rules cited in Paragraph 6, *supra*. For example, the seriousness of the violation should be considered in light of all the


circumstances of the case. Here, the violation resulted from the advice of a state employee which caused the Respondent to misunderstand the situation. When the Respondent discovered the mistake, she immediately took action to rectify the problem. There was no culpability or intent to deceive, and there were no serious consequences. Furthermore, the Respondent lives with her four minor children, who would suffer devastating effects from the loss of rental assistance. All these factors indicate that the Respondent's rental assistance should continue.

Based upon the foregoing, it is hereby determined that the State's request to terminate the Respondent's Section 8 rental assistance should be denied, and that the assistance should be continued.

This Initial Order entered and effective this 25th day of November, 2008.

Ann M. Johnson
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 25th day of November, 2008.



Thomas G. Stovall, Director
Administrative Procedures Division