

In the Matter of the Appeal of M C :
DECISION
: AFTER
FAIR
from a determination by the New York City Department HEARING
of Social Services (hereinafter called the agency) :

A fair hearing was held at 80 Centre Street, New York, New York, on January 14, 1985, before Ralph Erbaio, Administrative Law Judge, at which the appellant, the appellant's representative and representatives of the agency appeared. The appeal is from a determination by the agency relating to the denial of an application for Emergency Assistance. An opportunity to be heard having been accorded all interested parties and the evidence having been taken and due deliberation having been had, it is hereby found:

1. The appellant is receiving a grant of Aid to Dependent Children for herself and seven children. Also in the household is another child who receives Supplemental Security Income.

2. On January 10, 1985, the appellant requested this fair hearing to review the determination of the agency not to provide appellant with a special grant to pay for the replacement cost of a thermostat and a circulator motor for the repair of the heating system in her home.

3. The appellant resides in a private home which she rents. She pays a monthly rent of \$525.00. The appellant does not have a written lease.

4. On December 20, 1984, the father of the appellant's children entered her home, got into an argument and ripped the thermostat off the wall. This damage to the thermostat caused the circulator motor of her heating system to be rendered unusable.

5. The appellant received an estimate of \$68.45 to replace the thermostat and \$245.00 to replace the circulator motor.

6. On January 10, 1984, the appellant presented the estimates to the agency and requested a special grant for the payment of the repairs needed for

her heating system. The agency denied her request.

7. The repairs to the appellant's heating system were performed between January 11 and January 13, 1984. The repairs have been completed and the appellant's heating system is now working.

8. The appellant has paid Brooklyn Union Gas \$63.85, from funds borrowed from her representative, to cover the cost of the replacement of the thermostat.

9. The appellant has received a bill for \$245.00 for the installation of the new circulator motor but has not yet paid that bill.

10. The appellant has been informed that a local church will lend her the \$245.00 to pay for the circulator motor and that full repayment of this loan would be expected.

Section 352.7(b) of the Regulations of the State Department of Social Services provides that:

Each social services district shall provide for the essential repair of heating equipment, cooking stoves, and refrigerators used by persons in need of public assistance in their homes, provided provision therefor cannot otherwise be made.

The record in this case establishes that the appellant resides in a home which she rents pursuant to an oral lease. The father of the appellant's children entered her home in violation of a court order of protection and tore the thermostat off the wall. This caused the circulator motor of her heating system to be rendered unusable. The appellant received an estimate of \$63.85 to replace the thermostat and \$245.00 to replace the circulator motor. On January 10, 1984, the appellant presented the estimates to the agency and requested a special grant. The agency denied her request. The appellant's thermostat was replaced by Brooklyn Union Gas at a cost of \$63.85. The appellant paid for this repair with funds borrowed from her representative. The appellant's circulator motor was replaced at a cost of \$245.00. The appellant has not yet paid for the new circulator motor.

In view of the specific circumstances of this case, the above-cited provision requires the issuance of a special grant for the repair of the appellant's heating system. The appellant, pursuant to her lease agreement, is responsible for the replacement of this equipment. Furthermore, the damage to the appellant's heating system was not attributable to normal wear and tear but was due to the actions of the father of the appellant's children against whom she has an order of protection. It is also noted that this incident occurred during the winter, the time when a properly working heating system is most important for the welfare of the appellant's family. Accordingly, in view of the above circumstances and specific facts of this case, the determination of the agency was not correct.

The agency is directed to provide the appellant with a grant of \$245.00 to pay for the installation of the new circulator motor. In view of the fact that the appellant was forced to borrow money to pay for the new thermostat, after the agency's improper denial of her request for a special grant, the agency is further directed to provide the appellant with a special grant in the amount of \$63.85, to reimburse her for the cost of this essential repair to her heating system.

DECISION: The determination of the agency is not correct and is reversed. The agency must immediately comply with the directives set forth above as required by Section 358.22 of the Department's Regulations.

DATED: Albany, New York

JAN 29 1985

CESAR A. PERALES,
COMMISSIONER

By 
Commissioner's Designee