

VERMONT SUPREME COURT  
109 State Street  
Montpelier VT 05609-0801  
802-828-4774  
www.vermontjudiciary.org



Case No. 2021-155

*Note: In the case title, an asterisk (\*) indicates an appellant and a double asterisk (\*\*) indicates a cross-appellant. Decisions of a three-justice panel are not to be considered as precedent before any tribunal.*

## **ENTRY ORDER**

JANUARY TERM, 2022

In re Appeal of S.J.*	}	APPEALED FROM:
	}	Human Services Board
	}	CASE NO. B-05-21-311

In the above-entitled cause, the Clerk will enter:

Petitioner appeals the Human Services Board's decision dismissing her complaint for lack of jurisdiction. We affirm.

Petitioner is a recipient of motel housing from the General Assistance (GA) program administered by the Department for Children and Families (DCF). In May 2021, petitioner complained to DCF that she could feel residual heat on her motel room doorknob from cocaine chemicals. She alleged that another guest in a room below hers had directed brainwave abuse at her. She requested that all GA recipients be tested for drug use prior to being granted motel housing. She declined the opportunity to switch motels unless DCF could guarantee that it was a drug-free motel.

At a hearing, petitioner repeated these claims. She claimed that she was being mentally beaten. She asserted that DCF was violating federal law by failing to address the drug problem in the motel and asserted that she needed to make a full record for when she appealed to Congress. She made various allegations about politicians from Vermont and elsewhere and expressed her concerns about drug use in Vermont and nationally. The hearing officer explained to petitioner that the Board's jurisdiction was limited to determining whether petitioner had been improperly denied services, and that it was unable to order GA recipients to submit to drug testing. The hearing officer asked if petitioner had any other information she wanted to present, and petitioner spoke for a few more minutes about the problem of drug use. The hearing officer then ended the hearing.

The hearing officer subsequently issued a written recommendation that the Board dismiss the case for lack of jurisdiction because petitioner had failed to state a claim that would entitle

her to relief under 3 V.S.A. § 3091. The Board adopted the recommendation in a June 2021 order. This appeal followed.

Petitioner makes numerous arguments on appeal, many of which are difficult to decipher or appear to rely on evidence outside the record. Her primary complaint appears to be that she was denied a fair hearing below because the hearing officer did not allow her to fully present her testimony.

The jurisdiction of the Human Services Board “is limited to what is conferred by statute.” Vigario v. Dep’t of Soc. Welfare, 140 Vt. 100, 103 (1981). The Board’s governing statute is 3 V.S.A. § 3091, which provides:

An applicant for or a recipient of assistance, benefits, or social services from the Department for Children and Families, of Vermont Health Access, of Disabilities, Aging, and Independent Living, or of Mental Health, or an applicant for a license from one of those departments, or a licensee may file a request for a fair hearing with the Human Services Board. An opportunity for a fair hearing will be granted to any individual requesting a hearing because his or her claim for assistance, benefits, or services is denied, or is not acted upon with reasonable promptness; or because the individual is aggrieved by any other Agency action affecting his or her receipt of assistance, benefits, or services, or license or license application; or because the individual is aggrieved by Agency policy as it affects his or her situation.

Id. § 3091(a). The fair hearing is usually conducted by a hearing officer who makes findings of fact based on the evidence presented and makes a recommendation to the Board, which reviews the recommendation and may affirm, modify, or reverse DCF’s decision. Id. § 3091(b)-(d).

Here, the Board correctly determined that it lacked jurisdiction to consider petitioner’s complaint because it did not fall within any of the categories set forth in the statute. Petitioner did not allege that DCF failed to timely act on a claim for assistance or that DCF improperly denied, reduced, or terminated her GA assistance. She did not assert that she was denied any other benefit or service or a request for a license. Nor has she identified a specific DCF policy that has negatively affected her. The Board therefore appropriately dismissed petitioner’s complaint for lack of jurisdiction under 3 V.S.A. § 3091(a). See In re T.O., 2021 VT 41, ¶ 11 (affirming Board’s dismissal of complaint for lack of jurisdiction).

Petitioner’s claim that she was denied a fair hearing lacks merit. The record shows that petitioner was given a meaningful opportunity to present evidence and argument regarding her grievance. After petitioner spoke for several minutes, the hearing officer explained to petitioner that the Board lacked jurisdiction to grant the relief petitioner was requesting and provided her with an opportunity to present any other arguments. She did not do so, and the hearing officer terminated the hearing. The hearing officer was not required to give petitioner unlimited time to speak. See V.R.E. 611(a) (requiring court to exercise reasonable control over mode and order of presenting evidence so as to avoid needless consumption of time); Fair Hearing Rules

§ 1000.3(O)(5), Code of Vt. Rules 13 020 002, <http://www.lexisnexis.com/hottopics/codeofvtrules> (stating that Vermont Rules of Evidence apply in Board hearings). We therefore see no reason to disturb the decision below.

Affirmed.

BY THE COURT:

---

Paul L. Reiber, Chief Justice

---

Harold E. Eaton, Jr., Associate Justice

---

Karen R. Carroll, Associate Justice