

DISTRICT OF COLUMBIA
OFFICE OF ADMINISTRATIVE HEARINGS
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S_____ R_____
Petitioner,

v.

NEW HORIZONS
Respondent

Case No.: 2012-SHEL-00009

FINAL ORDER

I. Introduction

Respondent New Horizons issued a notice to Petitioner S_____ R_____ informing her that she would be terminated from its permanent supportive housing program. Because that notice was given to Ms. R_____ only five days before the proposed termination, it was invalid and must be reversed.

II. Procedural Background

Ms. R_____ filed a hearing request on January 17, 2012, to challenge a termination notice issued by New Horizons, which operates the permanent supportive housing facility where she and her children have been living. The Department of Human Services held an administrative review and issued a decision on March 12, 2012, upholding the termination.

I held a hearing on March 20, 2012. Ms. R_____ represented herself at the hearing and Tracy Lassiter, program manager, represented New Horizons. Based on the testimony of the

witnesses, my evaluation of their credibility and the exhibits admitted into evidence, I now make the following findings of fact and conclusions of law.

III. Findings of Fact

Ms. R____ has lived in permanent supportive housing provided by New Horizons since 2009. In September 2011, New Horizons moved her from an apartment on Angier Place, SE to her present apartment on _____ Street, SE. New Horizons moved Ms. R____ because she had been subjected to domestic abuse and needed a new place to live to avoid her abuser.

On January 4, 2012, New Horizons prepared a memorandum to Ms. R____ informing her that she would be terminated from the permanent supportive housing program, effective January 19, 2012. The memorandum listed a number of reasons for the termination, including possession of illegal drugs in her apartment, assaulting or battering another person on the premises, endangering her safety and the safety of others by allowing her abuser to live in the apartment, and knowingly violating program rules by having a pit bull in her apartment. New Horizons also prepared a Notice of Termination, dated January 14, 2012, informing Ms. R____ that she would be terminated on January 19, five days later. Neither the January 4 memorandum nor the January 14 notice alleged that Ms. R____ would be terminated on an emergency basis. The January 4 memorandum was attached to the January 14 termination notice. New Horizons delivered both documents to Ms. R____ on January 14, 2012.

I will make no findings of fact on the allegations against Ms. R____; as noted below the inadequacy of the notice given to Ms. R____ is sufficient to compel a decision in her favor.

IV. Conclusions of Law

The Homeless Services Reform Act established both substantive and procedural requirements when a provider of services seeks to terminate services to a client. Advance notice of termination is one of those requirements. Except in emergency circumstances, which do not exist in this case, the law requires a provider to give at least 15 days' written notice before terminating a client. D.C. Official Code § 4-754.33(c). That did not happen here. Although New Horizons prepared a memorandum 15 days before the scheduled termination date, it did not deliver either the memorandum or the termination notice until January 14, five days before the scheduled termination. Because the notice to Ms. R_____ was invalid, the termination may not proceed.

Because Ms. R_____’s termination was stayed by operation of law when she requested a hearing, she has known for more than two months that New Horizons is proposing to terminate her from its program. One might question whether enforcing the 15 day notice provision serves any purpose in such circumstances. I conclude that it does. Strict enforcement of the 15-day requirement will deter providers from issuing invalid notices. In particular, a client who receives a notice only a few days before a termination may not have the opportunity to take advantage of the right to request a hearing to challenge the termination and obtain a stay in non-emergency termination cases. It is therefore important that providers are aware of the 15-day advance notice requirement and the consequences for not adhering to it.¹

¹ The Homeless Services Reform Act now permits an immediate hearing at OAH, without waiting for an administrative review, if it appears that a notice is invalid on its face. D.C. Official Code § 4-754.42(c). No such hearing was scheduled in this case, because the date of the memorandum (January 4) appeared valid; the later date on the termination notice was overlooked.

Because the reversal of the termination is based upon inadequate notice, New Horizons is not prohibited from issuing a new, valid termination notice to Ms. R_____.

V. Order

Based on the findings of fact and conclusions of law, it is, this 26th day of March, 2012:

ORDERED, that the termination notice issued to Ms. R_____ on January 14, 2012, is **REVERSED**. New Horizons may not rely upon that notice to terminate Ms. R_____ from her apartment; and it is further

ORDERED, that nothing in this Order prohibits New Horizons from issuing a new, valid termination to Ms. R_____ based on the events at issue in this case. Ms. R_____ may request a hearing if she receives a new termination notice. Nothing in this Order shall be interpreted as ruling on whether any of the grounds for termination specified by New Horizons are valid; and it is further

ORDERED, that any party may ask for reconsideration or relief from this Order as described below, and it is further

ORDERED, that any party may appeal this Order by following the instructions below.

_____/s/_____
John P. Dean
Principal Administrative Law Judge