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2021 IL App (3d) 210043-U

Order filed December 10, 2021

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2021

MARIE ROLAND,)	Appeal from the Circuit Court
)	of the 10th Judicial Circuit,
Plaintiff-Appellant,)	Peoria County, Illinois.
)	
v.)	
)	
PEORIA HOUSING AUTHORITY, a)	Appeal No. 3-21-0043
Municipal Corporation, and)	Circuit No. 19-MR-711
JACKIE NEWMAN, in her official capacity as)	
Chief Executive Officer of the Peoria Housing)	
Authority,)	Honorable
)	David A. Brown,
Defendants-Appellees.)	Judge, presiding.

JUSTICE DAUGHERITY delivered the judgment of the court.
Justices Hauptman and Holdridge concurred in the judgment.

ORDER

¶ 1 *Held:* The decision of the defendant, the Peoria Housing Authority, to automatically terminate plaintiff's housing assistance as the result of plaintiff violating a family obligation under the program was clearly erroneous where defendant initially terminated plaintiff's housing benefits without consideration of the relevant circumstances and, on remand from the circuit court's review of that decision, again decided to automatically terminate plaintiff's benefits, despite being specifically directed by the circuit court to consider relevant and mitigating circumstances.

¶ 2 Plaintiff, Marie Roland, appeals the decision of defendant, the Peoria Housing Authority (PHA), regarding the termination of her housing voucher benefits. On review in the circuit court, the matter was remanded for the PHA to consider mitigating factors, including the presence of minor children in the home. On remand, the hearing officer issued another decision terminating plaintiff's housing voucher benefits and, on review of that decision, the circuit court affirmed. Plaintiff appeals, arguing that on remand, the PHA improperly considered termination of plaintiff's housing voucher benefits to be mandatory, failed to weigh the circumstances and mitigating factors, and failed to consider available alternatives to termination. Plaintiff further argues that the termination was arbitrary and unreasonable in light of the disproportionality of the penalty of the termination of her benefits in relation to the conduct. We reverse.

¶ 3 I. BACKGROUND

¶ 4 Plaintiff was a recipient of benefits under the federal Housing Choice Voucher (HCV) program administered by the PHA. Under the HCV program, “[the United States Department of Housing and Urban Development (HUD)] pays rental subsidies so eligible families can afford decent, safe, and sanitary housing.” 24 C.F.R. § 982.1(1) (2018). “The HCV program is generally administered by State or local governmental entities called public housing agencies,” which receive housing assistance funds from HUD. *Id.* (“HUD provides housing assistance funds to the [public housing authority]. HUD also provides funds for [the public housing authority’s] administration of the program”).

¶ 5 On September 15, 2018, the PHA issued to plaintiff a Notification of Unit Inspection for an annual inspection of plaintiff's home on December 7, 2018, at 10:30 a.m. On December 8, 2018, a second Notification of Unit Inspection was issued, scheduling an inspection for December 14, 2018, at 7:30 a.m. The notice stated that: plaintiff “or a tenant designated

representative over 18 years of age” was required to be present at the inspection; the inspector would arrive “within one hour of the scheduled time”; and the failure to be present was a violation of Code of Federal Regulations section 982.551, and “will result in a termination notice.” The notice was stamped with the words “mandatory” and “final request.”

¶ 6 Thereafter, the PHA terminated plaintiff’s voucher benefits due to her failure to be present for the two inspections. On December 31, 2018, plaintiff submitted an informal hearing request, indicating that she had missed the initial inspection appointment due to a family emergency and had called for another appointment and she had missed the second inspection due to her mother not hearing the door.

¶ 7 On February 28, 2019, an informal hearing was conducted by Hearing Officer Wendy Phillips. Plaintiff represented herself and appeared with her Pastor, Francis Keenan. The PHA’s HCV program inspector, Lysandra Foreman, appeared as a witness for the PHA.

¶ 8 Foreman stated that the home inspections were scheduled for plaintiff on December 7, 2018, and December 14, 2018, and “they were both no shows.” Foreman indicated that on December 14, 2018, she went to plaintiff’s apartment at 7:30 a.m. and no one answered the door. Foreman called plaintiff at 7:38 a.m. and left a message indicating she was at plaintiff’s home for the inspection. Plaintiff returned Foreman’s call at 9:35 a.m. while plaintiff was on her “five-minute break” at work and informed Foreman that her mother was, in fact, at her apartment and requested Foreman to return there to conduct the inspection. Foreman indicated that she had other scheduled inspections and was “only allowed to do two” inspections. Foreman further indicated that second inspections are “mandatory and it’s their final request.” Foreman stated the PHA’s policy was “[t]wo inspections, no shows, and you’re terminated” and “failure to be present on the second one was automatically termination.”

¶ 9 Plaintiff stated that she did not know about the inspection on December 7, 2018. Plaintiff indicated that she was having trouble receiving her mail and that she had been to the post office “plenty a time” about her mail that had not been received. She did not have any information from the post office in that regard because they had told her they do not give out anything that would indicate as such. Plaintiff acknowledged receiving the inspection notice for December 14, 2018, at 7:30 a.m. Plaintiff had arranged to have her mother spend the night prior to the inspection at her home so that her mother would be present for the 7:30 a.m. inspection. At that time in the morning on December 14, 2018, plaintiff had to take one of her children to the bus stop, take another child to school, and drive to work. Plaintiff stated that her mother was at her home at the time of the scheduled inspection but must not have heard that Foreman was at the door. Plaintiff confirmed that her mother was “up and around” that morning because the family wakes up every morning at 6:00 a.m., but they stay upstairs and it is “hard to hear up there.” Plaintiff indicated her mother was aware that the inspector was coming at 7:30 a.m. Plaintiff did not know how her mother had missed the inspector. Plaintiff indicated that when she had called her mother from work on her break on the of the day of the inspection, she had asked her mother what she was doing and her mother indicated that she was “for the lady.”

¶ 10 Pastor Keenan indicated that plaintiff’s mother, has had more than one stroke, was on several medications, and “would have answered if she heard.” Kennan requested that the hearing officer take into consideration that plaintiff is a single mother, that plaintiff works really hard, that plaintiff’s children are “somewhat challenged,” and that plaintiff is at school a lot with the children. He stated that plaintiff was a very good mother and good daughter.

¶ 11 On March 8, 2019, Hearing Officer Phillips issued a written decision upholding the PHA’s decision to withdraw plaintiff from the HCV program. Phillips indicated in her written

decision the testimony at the hearing made clear that plaintiff was in violation of her agreement with the PHA “by failing to make [her] unit available for the inspection required by the HCV program.” Phillips noted that plaintiff had explained she that had not received the inspection notice for December 7, 2018, but no evidence was provided in support of her having any issues with her mail service. Phillips also indicated that plaintiff’s testimony regarding the inspection scheduled for December 14, 2018, was that her mother “hadn’t answered the door for the inspector.” Phillips indicated that it was the tenant’s responsibility to ensure someone over the age of 18 was present for the inspection. Phillips stated in her written decision, “[y]ou confirmed you had received the letter for the inspection and was aware of the inspection.”

¶ 12 On August 28, 2019, plaintiff filed in the circuit court “a complaint for review of final admirative decision by *certiorari*” against defendants, the PHA and its Chief Executive Officer, Jackie Newman. On March 5, 2020, the circuit court remanded the matter back to the hearing officer “to weigh all mitigating factors that were presented, in particular the presence of children in the household,” citing to sections 23-II.D and 12-II.E of the PHA’s administrative plan.

¶ 13 On remand, on April 21, 2020, another written decision was issued by the PHA, in which the hearing officer indicated that “[a]fter reviewing all the evidence and mitigating factors that were presented in this matter, my decision is to uphold HCV decision to withdraw you from the HCV program.” The hearing officer indicated that the testimony had “made clear” that plaintiff was in violation of her agreement with the PHA by failing to make her unit available for the inspection as required by the HCV program. The hearing officer indicated that plaintiff had stated she was aware of the date and time of the second inspection and was aware that inspection was “mandatory and final.” The hearing officer also indicated that plaintiff had stated that plaintiff’s mother was at the unit at the time of the second inspection and was aware of the date

and time for the appointment but plaintiff's mother, however, was not on the lease to be qualified as an individual over the age of 18 to be present for the inspection. The hearing officer noted that she understood that "due to having children with disabilities, losing the HCV Voucher [sic] will put a hardship on the family" but indicated that per the PHA's Administrative Plan:

"If a family misses the first scheduled appointment without requesting a new inspection date, the PHA will automatically schedule a second inspection. If the family misses two scheduled inspections, the PHA will consider the family to have violated its obligation to make the unit available for inspection. This will result in termination of the family's assistance in accordance with Chapter 12."

¶ 14 On June 18, 2020, plaintiff filed in the circuit court a "motion for reversal of informal hearing decision after reversal and remand." Plaintiff argued that the hearing officer on remand did not follow the circuit court's instruction to weigh mitigating factors. Plaintiff further argued that the hearing officer continued to erroneously believe that missing two mandatory inspection appointments resulted in the mandatory termination of plaintiff's HCV program benefits. Plaintiff argued that the hearing officer was required to consider the circumstances and set forth the reasoning for the decision to terminate her benefits. Plaintiff requested that the circuit court reverse the PHA's decision and reinstate her HCV assistance retroactively.

¶ 15 On December 28, 2020, the circuit court denied plaintiff's motion for reversal and affirmed the decision of the hearing officer. Plaintiff appealed.

¶ 16 II. ANALYSIS

¶ 17 On appeal, the plaintiff argues that the PHA failed to distinguish between mandatory and discretionary terminations when deciding to terminate her voucher benefits by not considering the mitigating circumstances of the case. Plaintiff argues the PHA's decision to terminate her

voucher benefits was erroneous where the hearing officer failed to consider the discretionary nature of the termination and failed to consider her individual circumstances. She contends, therefore, that the termination of her voucher was arbitrary, capricious, and overly harsh in view of the mitigating circumstances.

¶ 18 “In administrative review cases, this court reviews the decision of the administrative agency, not the decision of the circuit court.” *Lipscomb v. Housing Authority*, 2015 IL App (1st) 142793, ¶ 11. When a court reviews the decision of an administrative agency, the court reviews only the record of the administrative proceedings. *Gaston v. CHAC, Inc.*, 375 Ill. App. 3d 16, 25 (2007).

¶ 19 “The applicable standard of review, which determines the degree of deference given to the agency’s decision, depends upon whether the question presented is one of fact, one of law, or a mixed question of law and fact.” *Lipscomb*, 2015 IL App (1st) 142793, ¶ 14 (quoting *AFM Messenger Service, Inc. v. Department of Employment Security*, 198 Ill. 2d 380, 390 (2001). Factual findings are reviewed under a “ ‘manifest weight of the evidence’ ” standard, with the agency’s findings considered “ ‘*prima facie* true and correct’ ” unless “ ‘the opposite conclusion is clearly evident.’ ” *Id.* (quoting *Gaston*, 375 Ill. App. 3d at 22-23). Where a purely legal question is at issue, the standard of review is *de novo*. *Id.* Where an agency’s decision involves a mixed question of law and fact, the decision will not be reversed on review unless it is “ ‘clearly erroneous,’ ” which occurs only “ ‘when the reviewing court is left with the definite and firm conviction that a mistake has been committed.’ ” *Id.* ¶ 15 (quoting *Cinkus v. Village of Stickney Municipal Officers Electoral Board*, 228 Ill. 2d 200, 211 (2008)). Mixed questions of fact and law are questions wherein historical facts are admitted or established, the rule of law is

undisputed, and the issue is whether the rule of law as applied to the established facts is or is not violated. *Id.*

¶ 20 “The voucher program is governed by HUD’s regulations, codified in 24 C.F.R. Part 982.” *Stewart v. Boone County Housing Authority*, 2018 IL App (2d) 180052, ¶ 3. HUD regulations require each public housing authority to adopt a written administrative plan that establish local policies for administering the HCV program in accordance with HUD’s requirements and which states the public housing authority’s policy on matters for which it has discretion to establish local policies. 24 C.F.R. § 982.54(a) (2018).

¶ 21 Voucher terminations are governed by 24 C.F.R. § 982.552 (2018). Subsection (b) of that regulation lists the reasons for which the public housing agency "must" terminate families from the program, and subsection (c) lists reasons for which the agency "may" terminate families from the program. 24 C.F.R. § 982.552(b), (c) (2018). One of the enumerated discretionary grounds for termination in subsection (c) is “[i]f the family violates any family obligations under the program (see § 982.551).” 24 C.F.R. § 982.552(c)(1)(i) (2018). “Family obligations” of the participants in the voucher program include the obligation to permit the public housing authority to inspect the unit at a reasonable time and after reasonable notice. 24 C.F.R. § 982.551(d) (2018). In determining whether to deny or terminate assistance because of action or failure to act by members of the family, the public housing authority “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.” 24 C.F.R. § 982.552(c)(2)(i) (2018). Participating families are entitled to an informal hearing following the termination of assistance because of the

family's action or failure to act for the consideration of whether the decision was made in accordance with the law, HUD regulations and policies of the public housing authority. 24 C.F.R. § 982.555(a)(1)(iv) (2018)).

¶ 22 The administrative plan of the Peoria Housing Authority (administrative plan) in effect at the relevant time herein, notes that HUD regulations specify “mandatory” and “optional grounds” for which a public housing authority can terminate a family’s assistance. Peoria Housing Authority, *Administrative Plan* (Apr. 1, 2019). Chapter 12 of the PHA’s administrative plan describes PHA’s policies governing mandatory and optional terminations of assistance. Chapter 12-I.A. of the PHA’s administrative plan, entitled “overview,” provides, “HUD *requires* the PHA to terminate assistance for certain actions and inaction of the family” (and when the family no longer requires assistance due to increases in family income) and “HUD *permits* the PHA to terminate assistance for certain other actions or inactions of the family.” (Emphases in original.) *Id.*

¶ 23 Section 12-I.D. of the PHA’s administrative plan, which is entitled “Mandatory Termination of Assistance,” states that HUD *requires* the PHA to terminate assistance in the following circumstances: eviction, failure to provide consent, failure to document citizenship, failure to disclose and document social security numbers, methamphetamine manufacture or production, subject to a lifetime sex offender registration requirement, failure of students to meet ongoing eligibility requirements, and death of the sole family member. (Emphasis added.) *Id.* Section 12-I.E of the PHA’s administrative plan, entitled “mandatory policies and other authorized terminations,” indicates under the heading “*Mandatory Policies*” that HUD requires the PHA to establish policies that “permit the PHA to terminate assistance” if the PHA makes

certain determinations in relation to illegal drug use, alcohol abuse, drug-related criminal activity, or violent criminal activity. (Emphasis added.) *Id.*

¶ 24 Under the heading “*Other Authorized Reasons for Termination of Assistance*” in section 12-I.E, the PHA’s administrative plan indicates that “HUD *permits* the PHA to terminate assistance under a number of other circumstances,” with it being left to the “discretion” of the PHA “whether such circumstances in general warrant consideration for the termination of assistance.” (Emphasis added.) *Id.* The “PHA Policy” related thereto, as set out in the administrative plan, indicates the PHA “will terminate” a family’s assistance if the family has failed to comply with any family obligation under the program, which includes allowing the PHA to inspect the unit at reasonable times and after reasonable notice. The relevant “PHA Policy” additionally indicates that in making its decision to terminate assistance, “the PHA *will consider*” alternatives as described in Section 12-II.C (*i.e.*, the culpable family member vacates the unit or the repayment of a family debt owed to the PHA) and other factors described in Section 12-II.D, and that upon consideration of such alternatives and factors, “*the PHA may, on a case by case-by-case basis, choose not to terminate assistance.*” (Emphass added.) *Id.*

¶ 25 In relevant part, section 12-II.D. of the administrative plan provides, “[t]he PHA is permitted, but not required, to consider all relevant circumstances when determining whether a family’s assistance should be terminated.” The policy of the PHA as stated in section 12-II.D. is as follows:

“The PHA will consider the following facts and circumstances when making its decision to terminate assistance:

The seriousness of the case, especially with respect to how it would affect other residents’ safety or property[.]

The effects that termination of assistance may have on other members of the family who were not involved in the action or failure to act[.]

The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities or (as discussed further in section 12-II.E) a victim of domestic violence, dating violence, sexual assault or stalking[.]

The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future[.]” *Id.*

¶ 26 In this case, plaintiff argues that because the PHA had discretion to terminate her HCV program benefits, mitigating factors should have been considered, including the seriousness of the case, how the case would affect other residents' safety or property, the effect termination may have on other family members, the extent of plaintiff's culpability, plaintiff's recent history, and the likelihood of favorable conduct in the future. Specifically, plaintiff argues that the mitigating factors in this case were: (1) plaintiff was working as a single mother of children with disabilities; (2) she did not receive the first notice; (3) she received the second notice for 7:30 a.m. (which she argues is not a reasonable time and is not permitted under PHA's policy, which permits inspections from 8 a.m. to 7 p.m.); (4) the notice did not offer an option to reschedule, indicating that the inspection was mandatory; (5) plaintiff had to take one child to the bus stop and another to school and had to be at work, and she had arranged for her mother to be present for the inspection; (6) plaintiff did not know why her mother did not hear the door; and (7) plaintiff called the inspector back at 9:30 a.m. and informed the inspector that her mother was at

the home and available for the inspection. Plaintiff additionally argues that this was not a serious violation and did not affect other residents or property. Plaintiff further argues that her children with disabilities “will lose their home” if her voucher assistance is terminated. (It appears from the record that since the termination of plaintiff’s voucher benefits, plaintiff has been paying the voucher portion of her rent herself). Plaintiff also contends there is a good indication that she will comply in the future given her efforts to comply with a 7:30 a.m. inspection and that there was a clear alternative to termination—scheduling an inspection at a time outside school and work hours where the PHA’s policy allows for inspections until 7 p.m. Plaintiff argues that the PHA did not consider the relevant circumstances or alternatives to termination of her HCV program benefits. Plaintiff further argues that “[t]he remand decision does not reflect that the hearing officer knew or appreciated that she had discretion not to terminate” and does not reflect the hearing officer’s rationale for choosing termination over alternatives in light of the relevant circumstances.

¶ 27 Here, the termination of plaintiff’s benefits was permitted but certainly was not mandated. See 24 CFR 982.552(c) (2018) (benefits may be terminated if any family obligations (*i.e.*, making the unit available for an inspection) are violated). We acknowledge that the PHA’s administrative plan provides that the PHA “will terminate” a family’s assistance if the family has failed to comply with any family obligation under the program, which includes the requirement to allow the PHA to inspect the unit at reasonable times and after reasonable notice. However, that statement (the PHA “will terminate” a family’s assistance if the family has failed to comply with the requirement to allow an inspection of the unit) is qualified by the language that the PHA “will consider” alternatives and other factors and, upon such consideration, may, on a case-by-case basis, choose not to terminate assistance. See *Stewart*, 2018 IL App (2d) 180052, ¶ 28

(“[s]ections of the plan must be read as a whole, so no part is rendered meaningless or superfluous”). In cases of a discretionary termination, “relevant circumstances must first be considered or the distinction between mandatory and discretionary terminations is meaningless.” *Id.* ¶ 30; see also *Lipscomb*, 2015 IL App (1st) 142793, ¶ 28; *Gatson*, 375 Ill. App. 3d at 24.

¶ 28 In *Gaston*, the First District Appellate Court affirmed the circuit court’s reversal of the termination of the plaintiff’s housing assistance where the hearing officer incorrectly treated program violations as mandatory rather than discretionary in violation of 24 C.F.R § 982.552. *Gaston*, 375 Ill. App. 3d at 24. In *Gaston*, two plaintiffs’ housing assistance payments were terminated from the housing voucher program for their failure to report their employment and income on their annual applications. *Id.* at 23. The hearing officer did not include any “reasons for why she chose to exercise her discretion to terminate” and treated the violations as mandatory, rather than discretionary. *Id.* at 23-24. The *Gaston* court examined 24 C.F.R. § 982.552(c) and determined that “the agency must consider some circumstances particular to the individual case, otherwise section 982.552’s distinction between mandatory and discretionary terminations becomes meaningless.” *Id.* at 24. However, the agency simply found the program participants “were ‘in violation’ without consideration of any ‘circumstances’ relevant to their particular cases.” *Id.* Additionally, the *Gaston* court determined that for one of the plaintiffs, who was a person with disabilities, the hearing officer’s decision did not indicate it was made subject to consideration of reasonable accommodations (as the Code of Federal Regulations requires) and for the other plaintiff, the hearing officer’s finding that she had committed a violation was against the manifest weight of the evidence. *Id.* at 45. The *Gaston* court, therefore, affirmed the circuit court’s reversal of the agency’s decision to terminate assistance. *Id.*

¶ 29 In *Lipscomb*, the First District Appellate Court again considered whether a hearing officer was required to consider mitigating factors in evaluating a discretionary termination of plaintiff's housing benefits. *Lipscomb*, 2015 IL App (1st) 142793, ¶ 16. The housing authority in *Lipscomb* terminated the plaintiff's housing assistance benefits for failing to timely report when her son and daughter had moved out. *Id.* ¶¶ 17, 20. The First District Appellate Court acknowledged its holding in *Gatson* that "a discretionary termination of benefits under subsection (c) [of section 982.552] requires the agency to consider [the] 'relevant circumstances' before making its determination." *Id.* ¶ 25 (quoting *Gaston*, 375 Ill. App. 3d at 24). The *Lipscomb* court found that there was nothing in the record to indicate that the mitigating factor of children in the household had been considered by the hearing officer and remanded for further consideration of the appropriate remedy for plaintiff's failure to timely report when her son and daughter had moved out. *Id.* ¶¶ 28, 35.

¶ 30 In *Stewart v. Boone County Housing Authority*, the housing authority terminated plaintiff's assistance after she failed to attend two recertification appointments. *Stewart*, 2018 IL App (2d) 180052 ¶ 5. The hearing officer upheld the housing authority decision to terminate and circuit court affirmed. *Id.* ¶¶ 12, 17. On appeal, the Second District Appellate Court noted that although there was no dispute that a violation of a family obligation had occurred, the issue at hand was the determination of the appropriate consequence, if any, for that violation, "in light of all relevant circumstances and given that a termination was discretionary." *Id.* ¶ 33. The *Stewart* court noted that the federal regulations pertaining to hearing procedures required the hearing officer to issue a written decision " 'stating briefly the *reasons* for the decision.' " (Emphasis in original.) *Id.* ¶ 33 (quoting 24 CFR § 982.555(e)(6) (2015)). The *Stewart* court further noted that the hearing officer had recited the evidence presented but failed to provide reasons for her

decision in light of that evidence, with there being no indication in the order that the hearing officer “knew or appreciated” that she had the discretion not to terminate, “or that her decision to terminate resulted from consideration and application of the factor’s prescribed within the [housing authority’s] administrative plan.” *Id.* The *Stewart* court held that “[w]here a termination is discretionary, the decision should reflect the hearing officer’s rationale for choosing termination over any alternative based on the relevant circumstances.” *Id.* at ¶ 38.

¶ 31 Here, upon remand, it appears the hearing officer believed that she had no discretion but to terminate plaintiff’s housing assistance based on the language of the PHA’s administrative plan. Although the hearing officer acknowledged that plaintiff had children and plaintiff losing the housing voucher would place hardship on the family, she stated that “per the Peoria Housing Authority Administrative Plan,” if a family misses two scheduled inspections, the PHA will consider the family to have violated its obligation to make the unit available for inspection, and “[t]his will result in termination of the family’s assistance in accordance with Chapter 12.” There was no indication of the hearing officer’s rationale for choosing termination, other than the language of the administrative plan, suggesting that the hearing officer did not know or appreciate that she had the discretion not to terminate plaintiff’s housing assistance, despite the matter having been remanded for her to so.

¶ 32 In this case, defendants initially and upon remand failed to consider the relevant factors applicable to plaintiff’s case. There is no dispute that a violation of plaintiff’s family obligations took place where plaintiff missed the two inspections. We note, however, that while plaintiff indicated at the initial hearing that she had not received the first notice of inspection and stated that there had been issues with the mail, the hearing officer wholly disregarded plaintiff’s testimony because “no evidence was provided to the hearing officer that supported any issues

with the mail service.” The hearing officer also appears to have wholly disregarded plaintiff’s testimony regarding her efforts to accommodate the 7:30 a.m. inspection on December 14, 2018. Plaintiff’s testimony included her detailing her efforts to accommodate the “mandatory” and “final” inspection, with the notice for the inspection having been issued just six days prior thereto and which had been unilaterally scheduled at a time when plaintiff had to get her children to school and go to work. Plaintiff’s testimony was pertinent to the relevant circumstances surrounding plaintiff missing the inspections and her culpability in doing so. See 24 C.F.R. § 982.552(c)(2)(ii) (2018) (in determining whether to deny or terminate assistance because of action or failure to act by members of the family, the public housing authority 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). There is no indication that the hearing officer made any credibility determinations in disregarding plaintiff’s testimony; rather, it appears that plaintiff’s testimony was inexplicitly disregarded without consideration.

¶ 33 Here, the issue the hearing officer was to determinate was the appropriate consequence, if any, for the violation “in light of all relevant circumstances and given that a termination was discretionary.” See *Stewart*, 2018 IL App (2d) 180052 ¶ 33. However, instead of doing so, defendants appear to have twice automatically terminated plaintiff’s housing benefits due to the violations without no consideration of the relevant circumstances. An automatic termination is not supported by the record in this case and was clearly erroneous. In light of defendants’ failure to consider the relevant and mitigating circumstances, even despite directions on remand to do

so, we reverse the PHA's decision to terminate and the circuit court's judgment affirming that decision.

¶ 34

CONCLUSION

¶ 35

The judgment of the circuit court of Peoria County is reversed; hearing officer's decision is reversed.

¶ 36

Reversed.