

## PART C – Decision under Appeal

The decision under appeal is the ministry's reconsideration decision dated February 20, 2012, which denied the appellant's request for a crisis supplement for rent. The ministry stated that the need to pay for rent cannot be considered as an unexpected expense; that the appellant did not provide evidence that failure to obtain rent funds for the month of January/2012 will result in imminent danger to his health and that there are alternate resources available for him to pay the rent, as required under Section 59 of the Employment and Assistance Regulation.

## PART D – Relevant Legislation

Employment and Assistance Regulation – Section 59

## PART E – Summary of Facts

Although notified in the prescribed manner on March 09, 2012 of the place, date and time of the hearing, the appellant was not present at the hearing, nor was anyone on his behalf. Therefore, as allowed by Section 86 (b) of the Employment and Assistance Regulation, the panel proceeded with the hearing in the absence of the appellant.

The evidence before the panel was provided in part in the appeal record and in part through oral evidence submitted at the hearing by the ministry, which was admitted under Section 22 (4) of the Employment and Assistance Act. In the appeal record, as part of the evidence, were copies of the following documents:

- 1) The appellant's Request for Reconsideration dated January 23, 2012, with a written statement he provided in which he describes his need for financial assistance to pay the rent for the month of January/2012. The appellant stated that he did not know he had to file the Income Tax Return to continue receiving a Child Tax Benefit and for that reason he stopped receiving this benefit; that he had to borrow money from a friend several times to pay living costs; that in August/2011 he filled the Income Tax Return and in December he received the payment for the Child Tax Benefit for the previous five months; that he then paid his friend with this money. The appellant stated that he would like the ministry to assist him in paying January's rent; that he wanted the "rent portion to give it to his friend" as he still owes him; that he wanted "the whole payment for January/2012".
- 2) The appellant's Notice of Appeal, dated February 26, 2012, with a statement he provided informing the ministry that he "hadn't had any idea about income tax return in Canada" and that was the reason why he did not file an Income Tax Return for 2010; as a result, "the Ministry of Social Assistance or the Revenue Canada Agency cut his social assistance for the month of January 2012"; that also, "they cut all his Child Tax in July 2011, but that he got the whole amount at the end of December/2011". The appellant stated that "the ministry still owes him the social assistance for the month of January/2011 in the amount of \$1,200.00".
- 3) Copy of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated December 01, 2011, from the appellant's landlord, notifying the appellant he had five days to pay the rent or move out in 10 days, or he would be evicted.
- 4) Copy of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated January 01, 2012, from the appellant's landlord, notifying the appellant he had five days to pay the rent or move out in 10 days, or he would be evicted.
- 5) Copy of a letter addressed "To whom it May Concern", dated January 23, 2011, and signed by the Resident Manager of the appellant's place of residence, informing that the appellant and his family have resided in the same address from March 1, 2011 to that date; that he had always paid his rent on time, but he had been late twice for the months of December/2011 and January/2012; that on January 9 the appellant paid the rent but said he had to borrow money from a friend to be able to do so.
- 6) Copy of a letter addressed "To Whom it May Concern" dated January 22, 2012, signed by the appellant's friend who informed that the appellant had borrowed money from him in the amount of \$3,850.00 and that in December the appellant had repaid \$2,800.00, and still owed him \$1,050.00

The ministry restated the position as it is set out in the reconsideration decision, reaffirming that the appellant has been in continuous receipt of Income Assistance with his spouse and three children since November 2011; that he was advised that he should report to the ministry when receiving the Family Bonus Benefit; that when he received this benefit from the Federal Government in November, the amount received exceeded the amount of his support and shelter allowances and, therefore, he was not eligible for Income Assistance in January/2012. The ministry stated that the appellant's request for a crisis supplement to pay his rent for the month of January 2012, does not meet the eligibility criteria in that instance.

## PART F – Reasons for Panel Decision

The issue on appeal is whether or not the ministry reasonably concluded that the appellant is not eligible under the prescribed legislation to receive a crisis supplement for the rent for the month of January/2012 because the appellant's situation did not meet the eligibility criteria for a crisis supplement pursuant to Section 59 of the Employment and Assistance Regulation.

Employment and Assistance Regulation, Section 59, sets out:

### ***Crisis supplement***

**59** (1) *The minister may provide a crisis supplement to or for a family unit that is eligible for income assistance or hardship assistance if*

*(a) the family unit or a person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed and is unable to meet the expense or obtain the item because there are no resources available to the family unit, and*

*(b) the minister considers that failure to meet the expense or obtain the item will result in*

*(i) imminent danger to the physical health of any person in the family unit, or*

*(ii) removal of a child under the Child, Family and Community Service Act.*

*(2) A crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made.*

*(3) A crisis supplement may not be provided for the purpose of obtaining*

*(a) a supplement described in Schedule C, or*

*(b) any other health care goods or services.*

*(4) A crisis supplement provided for food, shelter or clothing is subject to the following limitations:*

*(a) if for food, the maximum amount that may be provided in a calendar month is \$20 for each person in the family unit,*

*(b) if for shelter, the maximum amount that may be provided in a calendar month is the smaller of*

*(i) the family unit's actual shelter cost, and*

*(ii) the maximum set out in section 4 of Schedule A or Table 2 of Schedule D, as applicable, for a family unit that matches the family unit;*

*(c) if for clothing, the amount that may be provided must not exceed the smaller of*

*(i) \$100 for each person in the family unit in the 12 calendar month period preceding the date of application for the crisis supplement, and*

*(ii) \$400 for the family unit in the 12 calendar month period preceding the date of application for the crisis supplement.*

*(5) The cumulative amount of crisis supplements that may be provided to or for a family unit in a year must not exceed the amount calculated under subsection (6).*

*(6) In the calendar month in which the application or request for the supplement is made, the amount under subsection (5) is calculated by multiplying by 2 the maximum amount of income assistance or hardship assistance that may be provided for the month under Schedule A or Schedule D to a family unit that matches the family unit.*

*(7) Despite subsection (4) (b) or (5) or both, a crisis supplement may be provided to or for a family unit for the following:*

- (a) fuel for heating;*
- (b) fuel for cooking meals;*
- (c) water;*
- (d) hydro.*

The ministry's position is that the appellant's request for a crisis supplement does not meet the eligibility criteria. The ministry stated that the need to pay rent cannot be considered as an unexpected expense; that the appellant did not provide evidence that failure to obtain January rent funds will result in imminent danger to his health and that the appellant had alternate resources to pay the rent. The ministry pointed out that in November/ 2011 the appellant received a family bonus payment of \$1,662.00 of which \$1,330.32 was a retro-active payment from the Federal Government; that the retro-active portion was deducted from his January/2012 Income Assistance and because the amount of the family bonus retro-active payment exceeded the amount for his support and shelter allowances, he was not eligible for January/2012 Income Assistance. The ministry stated that the appellant had resources to pay the rent for the month of January/2012 – the retro-active payment - but that he chose to repay a loan rather than pay his rent. The ministry concluded that the appellant's situation does not meet the eligibility criteria for a crisis supplement, as prescribed in the pertinent legislation.

The appellant stated that he had to borrow money from a friend several times to pay living costs; that after filing the Income Tax Return in August, in December he received the retro-active payment for the Child Tax Benefit for the previous five months; that he then paid his friend with this money. The appellant submitted that his friend also paid the rent for the month of January/2012 for him to avoid eviction and now he needs the ministry to give him the "rent portion" for him to pay back his friend.

The panel finds that the ministry reasonably determined that the appellant has not met all of the legislative criteria to receive a crisis supplement, as set out in Section 59 of the Employment and Assistance Regulation. The cited legislation provides that, in order to be eligible for a crisis supplement, a person must meet the following criteria: (1) the required supplement is to meet an unexpected expense or obtain an item unexpectedly needed; (2) the person has no alternate resources available to obtain the item and (3) failure to obtain the item will result in imminent danger to the physical health of any person in the family unit.

With reference to the first legislative criterion - the required supplement is to meet an unexpected expense or obtain an item unexpectedly needed - the panel finds that the evidence demonstrated that there were no unexpected circumstances preventing the appellant from paying his rent in the month of January/2012; also, that rent is a regular monthly cost and in this circumstance does not represent an 'unexpected need'. Therefore, the panel finds that the ministry was reasonable when it concluded that the appellant did not meet this legislative criterion.

In relation to the second legislative criterion - there are no alternate resources available to obtain the item - the panel finds that the evidence demonstrated that in November/2011 the appellant received a National Child Tax

Benefit lump sum payment of \$1,662.90 of which \$1,330.32 was a retro-active payment and available for the appellant to pay January/2012 rent. Instead, the appellant chose to pay off his friend. As a result, the panel finds that the ministry was reasonable when it concluded that the appellant had resources to pay for the rent of January/2012.

Concerning the third criterion - failure to obtain the item will result in imminent danger to the physical health of any person in the family unit - the panel finds that the appellant did not provide evidence that failure to obtain the crisis supplement for shelter for the month of January/2012 would result in imminent danger to his health or the health of any other person in the family unit. Consequently, the panel finds that the ministry was reasonable when it concluded that the appellant did not meet this legislative criterion.

Therefore, the panel finds that the ministry's decision to deny the appellant's request for a crisis supplement for rent for the month of January/2012 was a reasonable application of the applicable enactment in the circumstances of the Appellant and, therefore, confirms the decision of the Ministry under Section 24 (2)(a) of the EAA.