

## PART C – Decision under Appeal

The decision under appeal is the ministry's reconsideration decision dated February 27, 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 February/2012 will result in imminent danger to her physical health and that there are alternate resources available for her to pay the rent. Therefore, the requirements under Section 5 of the Employment and Assistance for Persons with Disabilities Act and Section 57 of the Employment and Assistance for Persons with Disabilities Regulation were not met.

## PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA) – Section 5

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) – Section 57

## PART E – Summary of Facts

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

- 1) The appellant's Request for Reconsideration dated February 22, 2012, with a written statement she provided in which she states that she is attending college; that she is a straight A student and has been guaranteed help to obtain a job by the head of her union; that her roommate promised to pay \$700.00 for the rent, in addition to a \$200.00 personal loan the appellant provided to her; that the appellant has a child diagnosed with a mental disability and any disruption in the child's routine causes the child to suffer behavioural problems and this will result in the appellant having to withdraw from college. The appellant stated that her mother has confirmed to the ministry that she will help to pay for half of the rent if need for the next month. She asks the ministry to help her one more time and by doing so allow her to be independent from the welfare system.
- 2) The appellant's Notice of Appeal, dated March 01, 2012, with a statement she provided informing the ministry that she has a week left for her studies and if the reconsideration decision is upheld by the panel it would cause her to quit her course to pursue more affordable housing; that her children come before her independence from the welfare system; also, that her mentally disabled child is prone to violence when changes are made to his routine.
- 3) Copy of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated February 07, 2012, from the appellant's landlord, notifying the appellant she had five days to pay the rent or move out in 10 days, otherwise she would be evicted.
- 4) Copy of a letter addressed "To whom it May Concern", undated and signed by the appellant's mother, informing that she will be able "to cover the extra \$135.00 owing on the appellant's rent as well as half of the next month (March) in order to keep the appellant from being evicted".

At the hearing, the appellant presented an oral submission that covered the following points:

- She understands the ministry position and understands its decision, but she has nowhere to go.
- Her roommate moved out without notice.
- She has two children and one with a "pretty severe mental disability" and because of that her children have to sleep in separate rooms; that if she needs to move out her mentally disabled child will be become very upset; that her child is 240 pounds and is very violent and once broke the door of their house; that she has moved before and had problems with the children's adjustment to the new house; that she has struggled a lot with this situation.
- She has looked in the papers and couldn't find another less expensive 3-bedroom house.
- She has just graduated from her studies and now she has a job offer.
- She has no resources to support herself and her children; that her mother is helping now with her rent, but her brother is not helping at this time.
- She is a month behind in her rent.

The ministry restated the position as it is set out in the reconsideration decision, reaffirming that the appellant has been living in a high-rent situation; that it provided the appellant a crisis supplement for shelter in November 2011 and another one in August 2010, both for the same reasons – roommate moving out without paying the rent - and that it shows a pattern of reliance on crisis supplements. The ministry pointed out that it already provided the appellant with the amount for shelter for which she is eligible for the month of February 2012. The ministry stated that the legislation is very clear on this topic and that the ministry's decision was based on the legislation; lastly, that the help the appellant is requesting now from the ministry – a crisis supplement to pay her rent for the month of February/2012 - does not meet the eligibility criteria.

## 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 rent for the month of February/2012 because the appellant's situation did not meet the eligibility criteria for a crisis supplement pursuant Section 5 of the Employment and Assistance for Persons with Disabilities Act and Section 57 of the Employment and Assistance for Persons with Disabilities Regulation.

Employment and Assistance for Persons with Disabilities Act, Section 5, sets out:

### ***Disability assistance and supplements***

*5 Subject to the regulations, the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it.*

Employment and Assistance for Persons with Disabilities Regulation, Section 57, provides:

### ***Crisis supplement***

*57 (1) The minister may provide a crisis supplement to or for a family unit that is eligible for disability 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 disability 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 (1) the need to pay rent cannot be considered as an unexpected expense; (2) the appellant did not provide evidence that failure to obtain February/2012 rent funds will result in imminent danger to her health and (3) that the appellant had alternate resources to pay the rent.

The ministry submitted that the appellant is a single person with disabilities designation and receives \$672.08 for support and \$660.00 for shelter, totalling \$1,332.08 of income assistance since May 2010, but that the appellant had chosen to live in a high-rent dwelling; also, that the appellant is aware that she is responsible for anything beyond the income assistance the ministry provides. The ministry pointed out that it has provided the appellant with a crisis supplement for shelter in the amount of \$660.00 twice, in November 2011 and in August 2010, for the same reasons – roommate moving out without paying their share of the rent. The ministry stated that the appellant's behaviour demonstrated a pattern of reliance on crisis supplements and that the intent of crisis supplements should be observed.

The ministry also stated that the appellant has resources available to pay for the rent for the month of February, since her mother has agreed to help her with this expense; also, that the appellant has informed that her brother is willing to help her and that she has indicated that she would soon secure employment. Lastly, that the appellant did not provide any information that confirms that if the ministry does not provide the appellant with a crisis supplement for shelter, her physical safety will be in imminent danger. 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 submitted that her roommate promised to pay \$700.00 for the rent for February/2012, but that she moved out without paying any amount; that she has a child diagnosed with a mental disability and any disruption in the child's routine causes the child to have behavioural problems; that the child can be violent and once broke a door at home; that she has moved before and that had created problems with the children.

The appellant stated that because of the mental condition of this child, she cannot put her two children to sleep in the same bedroom and, therefore, she needs a high-rent three-bedroom house; that she has no resources to support herself and her children; that her mother is helping now with her rent, but her brother is not helping. She submitted that she understands the ministry's decision but that she has nowhere to go. She asks the ministry to help her one more time and by doing so allow her to be independent from the welfare system.

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 57 of the Employment and Assistance for Persons with Disabilities 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 need for the item is unexpected - the panel finds that the evidence demonstrated that there were no extraordinary circumstances preventing the appellant from paying her rent in the month of February/2012. The panel reached that conclusion for the following reasons: (1) the appellant, as a person with disabilities designation, is eligible for a monthly shelter allowance in the amount of \$660.00; nevertheless, she chose to live in a high-rent dwelling paying \$1,445.00 monthly for rent; (2) the appellant was advised by the ministry on several occasions that any amount above the income and assistance rates was the appellant's responsibility; (3) the appellant had been in the same situation twice before, in August 2010 and November 2011, when her roommates for those periods moved out without paying their share of the rent; (4) the ministry had already provided the appellant with the amount for shelter for which she is eligible for the month of February 2012; and (5) rent is an expected monthly cost and an unexpected need cannot be established in this circumstance. 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 the appellant's mother is helping her to pay for her rent; also, the appellant has stated that she has finished her course and has received an offer of employment. As a result, the panel finds that the ministry was reasonable when it concluded that the appellant did not meet this legislative criterion.

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 February/2012 would result in imminent danger to her physical health or the health of any other person in the family unit. The appellant's submission that one of her children can become very upset and/or violent as a result of moving is not confirmed or supported by the provision of any additional information. 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 February/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.