

## PART C – Decision under Appeal

The decision under appeal is the Ministry's Reconsideration Decision, dated July 10, 2012, which held that the Appellant was not eligible to receive a security deposit supplement to rent a new apartment, under sec. 58 of the Employment and Assistance Regulation. As the Appellant had two outstanding security deposits unpaid, the Appellant could only receive a third if she was fleeing from an abusive spouse, her rental unit was being sold or demolished or she was in imminent threat of being made homeless.

## PART D – Relevant Legislation

EAR Employment and Assistance Regulation - Section 58

## PART E – Summary of Facts

The evidence before the ministry at the reconsideration was as follows;

- 1- Two pages, "Assignments and Agreements List," dated June 29, 2012, which set out among other things; the security deposits received by the Appellant from 1999 to present, and showed two deposits still outstanding for recovery.
- 2- Three pages, "Ministry of Social Development Statement of Account," dated June 29, 2012, showing monies paid to and received to the Appellant since 1999.
- 3- One page "Decision Report Case", dated June 29, 2012, setting out the requirements of Sec. 58 of the EAR and showing the Appellant is a single recipient, with two or more outstanding deposits, that she is not fleeing an abusive spouse, her current rental is not being sold or demolished and is not condemned, and the Appellant is not at imminent risk of being made homeless.
- 4- One page "Shelter Information," dated June 25, 2012, setting out the Appellant's new or proposed rental unit and it's address, the amount of rent and security deposit and including the landlord's information
- 5- Three pages "Employment and Assistance Request for Reconsideration," signed by the Appellant on July 2, 2012. The decision sets out, among other things, that the shelter information form was submitted June 18. On June 27 a ministry worker updated the Appellant's file with the new address, as per the shelter form that was submitted, and noted the Appellant did not qualify for the supplement unless the balance owing on a current outstanding security deposit was repaid. June 28 the Appellant was advised the request was denied. The Appellant wrote on the reconsideration request that the security deposit was needed so she could obtain supervised visits on the weekends with her children, that she lost her last security deposit as her roommate broke the contract and she had to move as without a roommate she could not afford the rent.

The Reconsideration Decision set out the background as above and noted that sec 58 of the EAR stated the ministry may provide a security deposit for a rental residence if the person agrees to repay the deposit, the deposit is not more than 50% of the monthly rent and the maximum outstanding security deposit supplement at one time is two. A third deposit may be issued if a person is separating from an abusive spouse, the rental unit is being sold or demolished and the person is in imminent threat of being homeless. The ministry found that the Appellant had two outstanding deposit supplements and found that the information provided by the Appellant did not establish her rental unit was being sold or demolished, that she was separating from an abusive spouse or at imminent risk of becoming homeless. The ministry stated that consideration for another security deposit supplement could not be made until one of the outstanding supplements had been repaid.

The Appellant filed a Notice of Appeal dated, July 12, 2012, stating she will not be able to reside at the apartment she was in. She is in need of a place without roommates in order to have visitations with her children and that she would bring proof of this with her. The Appellant provided her mailing address on the Notice as the new apartment she was seeking the deposit for, not her previous address.

At the hearing the Appellant did not attend. After confirming the appellant had been properly notified of the hearing, the hearing proceeded as per sec. 86(b) of the Employment and Assistance Regulation.

At the hearing, the Ministry re-iterated its position that the Appellant did not qualify under the legislation and the Ministry could not authorize the supplement unless it met the legislated requirements. The Ministry also pointed out that the appellant advised she would supply proof that she required this residence so she could get access to her children, but none was ever provided. The ministry advised that the children had been taken into care 2 years prior, and that the Appellant has stated several times over this time frame that she has needed to move for this same reason. The ministry has never received any proof that this was the case. If such proof had been provided the Ministry could also consider a top-up for the family's accommodation under the Child Care Subsidy Act. Since the children have been apprehended the Appellant has submitted 8 different shelter forms and received 3 security deposits.

The Ministry pointed out that in effect they only loan the security deposits to the clients and the Ministry recoups \$20.00 per month, deducted from assistance received, on the client's agreement. The security deposit cheques are made payable to the landlords and the clients are entitled to obtain the deposits back from the landlords as any tenant could. The appellant has also benefitted from the Ministry writing off the collection of three security deposits, in March of 2010, that were outstanding since the years 2000 and 2001. This was demonstrated in the Appellant's Statement of Account, item #2 above, and never repaid.

## PART F – Reasons for Panel Decision

The issue to be decided is whether the ministry reasonably concluded that the Appellant was not eligible for the security deposit supplement.

The legislation provides as follows;

### Employment and Assistance Regulation

#### Supplement to pay a security deposit

**58 (1)** In this section:

...

**"security deposit"** means a security deposit as defined in the *Residential Tenancy Act*, or an amount required by a cooperative association to be paid by a recipient to the cooperative association for the same or a similar purpose as a security deposit under the *Residential Tenancy Act*.

(2) The minister may provide a security deposit to or for a family unit that is eligible for income assistance or hardship assistance if

- (a) the security deposit is necessary to enable the family unit to rent residential accommodation,
- (b) the recipient agrees in writing to repay the amount paid under this section, and
- (c) the security deposit does not exceed 50% of one month's rent for the residential accommodation.

(3) The minister may recover the amount of a security deposit provided under subsection (2) by deducting \$20 for each calendar month, or a greater amount with the consent of a recipient, from income assistance or hardship assistance provided to or for the family unit starting with the income assistance or hardship assistance provided for the calendar month following the calendar month during which the security deposit is paid.

(4) The minister must not provide more than 2 security deposits to or for a family unit unless

- (a) only one of the security deposits has not been recovered or repaid,
- (b) the family unit requires up to one more security deposit to change rented residential accommodation
  - (i) because the recipient is separating from an abusive spouse, or
  - (ii) because the family unit's rented residential accommodation
    - (A) is being sold or demolished and a notice to vacate has been given, or

(B) has been condemned, or

(c) the minister is satisfied that the family unit is homeless or at imminent risk of becoming homeless.

(5) For the purposes of subsection (3), "**security deposit**" includes a security deposit provided on or after April 1, 2002 under the

(a) Income Assistance Regulation, B.C. Reg. 75/97,

(b) Youth Works Regulation, B.C. Reg. 77/97,

(c) Disability Benefits Program Regulation, B.C. Reg. 79/97, or

(d) Employment and Assistance for Persons with Disabilities Regulation.

[am. B.C. Regs. 518/2004, s. 6; 315/2008, s. (a).]

The ministry argues that the Appellant cannot receive this supplement as she does not meet the legislative requirements. The Appellant argues she is in need of the supplement as she will not be able to find suitable accommodation where she can obtain supervised access to her children who have been apprehended and are in care.

The legislation in this situation is very clear. As the Reconsideration Decision sets out, sec. 58 of the EAR only allows the ministry to provide a security deposit for a rental residence if the person agrees to repay the deposit, the deposit is not more than 50% of the monthly rent and the maximum outstanding security deposit supplement at one time is two. The panel finds that the evidence is clear that the Appellant has at least two security deposits outstanding as demonstrated in the Assignments and Agreements List.

As the Reconsideration Decision sets out, a third deposit may be issued if a person is separating from an abusive spouse, the rental unit is being sold or demolished and the person is in imminent threat of being homeless. The Reconsideration Decision neglected to mention a person may also qualify if their residence is condemned. The Ministry found that the information provided by the Appellant did not establish her rental unit was being sold or demolished, that she was separating from an abusive spouse or at imminent risk of becoming homeless. It is clear on the evidence, and the panel finds, that there was no evidence the Appellant's rental unit was being sold, demolished or condemned, she was not fleeing from an abusive spouse or at imminent risk of being homeless. The stated reason for the need for the deposit was so that she could have supervised access to her children. This is not something that falls under the legislated criteria. As such, she did not qualify for another security deposit unless, as the Ministry stated in their Decision, one of the outstanding security deposits had been repaid. There was no evidence such a repayment had occurred, and therefore she was not eligible for the supplement.

As such, the panel finds that the Ministry's Reconsideration Decision was reasonably supported by the evidence and is a reasonable application of the legislation based on the evidence and confirms the Decision.