

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision dated July 17, 2012 which denied the appellant's request for a crisis supplement to cover utility costs. The Ministry held that the requirements of Section 57 of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR) were not met as the ministry found that utility costs are not an unexpected expense, there are alternate resources available to the family unit to pay for utility costs, and there was not sufficient information to establish that failure to meet the expense will result in imminent danger to the physical health of any person in the appellant's family unit or to the removal of a child under the *Child, Family and Community Service Act*.

PART D – Relevant Legislation

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), Section 57

PART E – Summary of Facts

The evidence before the ministry at the time of the reconsideration decision consisted of:

- 1) Final Notice of Disconnection dated July 11, 2012 from the hydro company stating in part that the amount of \$1,438.54 plus \$43.68 must be paid by the appellant before July 13, 2012 or her service will be disconnected;
- 2) Personal Assessment for the appellant from a bank which is stamped received by the ministry July 12, 2012 and states in part that the appellant's total deposit is \$0.14 and liabilities are \$2,036.93;
- 3) Print out stating in part that a payment of \$850 was made to the hydro company on March 15, 2012; and,
- 4) Request for Reconsideration- Reasons.

The appellant did not attend the hearing. After confirming that the appellant was notified, the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation.

In her Notice of Appeal, the appellant states that there is only one meter in the home so the bill could only go into one person's name so she switched directly from her last residence to her new dwelling. The appellant states that when she rented this home in November she did not realize the hydro bill would be \$230 per month on top of everything else. The appellant states that the electric base heater switch plates are broken and could not be adjusted. The appellant states their tenants downstairs rent a room and the rest of the house is lived in communally. The appellant states that she is currently looking for a new residence because she knows this place is too expensive. The appellant states she did not receive a succession of letters from the hydro company as she was always in contact with them to make payment arrangements. The appellant requests an explanation of the resources available because she states that not everyone out there is willing to help. The appellant states that hydro is an important need and she wonders how to cook, clean and keep food fresh if there is no hydro.

In her Request for Reconsideration, the appellant states that she has epilepsy and two little girls live in the home. The appellant states that her room-mate is a pregnant teenager with diabetes and no income. The appellant states that the security deposit for the hydro company increased and the monthly bill is \$230. The appellant states that if the hydro is cut off all their food will spoil and no one could eat a hot meal or wash in a warm bath, and insulin needs to be refrigerated. The appellant states that no hydro will mean the removal of her children due to lack of proper living conditions. The appellant states that the only phone in the house is cordless so they would not be able to call 911. The appellant states that her disease is not completely controlled with meds and that stress can cause seizures.

The ministry's evidence is that on July 9, 2012, the appellant submitted a request for a crisis supplement for an outstanding utility bill of \$1,065.20. The ministry clarified at the hearing that approximately \$280.00 of this amount is for a security deposit being requested by the hydro company. The ministry contacted the appellant regarding the outstanding bill and the appellant advised that she rents the second floor of the house and there are other persons who occupy the second floor. The appellant stated that she agreed to put the utility account in her name for the entire dwelling. The ministry clarified at the hearing that the other residents of the house, except for a teenage girl, are also receiving assistance. The appellant stated that she is responsible for one third of the utility bill but the other residents on the second floor have not been paying their share and have their own leases with the landlord of the premises. On July 11, 2012, the appellant submitted the hydro company's final disconnection notice to the ministry. On July 12, 2012, the appellant informed the ministry that the hydro company indicated that payment of the security deposit would not void the disconnect notice. The ministry added at the hearing that the ministry was in contact with the hydro company and that there was no payment arrangement in place with the appellant for the outstanding amount. The appellant receives shelter allowance of \$526.66 and support of \$672.08 per month for a single person on disability income assistance.

PART F – Reasons for Panel Decision

The issue on the appeal is whether the ministry's decision which denied the appellant's request for a crisis supplement to cover utility costs, as the requirements of Section 57 of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR) were not met, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the appellant's circumstances.

Section 57(1) of the EAPWDR sets out the eligibility requirements which are at issue on this appeal for providing the crisis supplement, as follows:

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*.

The appellant's position is that the hydro bill was an unexpected expense because she did not know how much the utility bill would be when she rented the premises in November 2011 nor that the electric base heater switch plates were broken and could not be adjusted. The appellant also argues that she did not receive a succession of letters from the hydro company as she was always in contact with them to make payment arrangements. The appellant argues that she tried to negotiate a payment arrangement with the hydro company for the outstanding amount, and does not know of any other resources available to her. The appellant argues that without hydro she wonders how she will cook, clean and keep food fresh, that one of her room-mates is a pregnant teenager with diabetes whose insulin must be refrigerated, and the only telephone is cordless so they would not be able to call 911 in an emergency. The appellant argues that no hydro will mean the removal of her children due to lack of proper living conditions.

The ministry argues that the provisions of Section 57 of the EAPWDR allow for the ministry to provide a crisis supplement when all of the legislative criteria are met, including that the supplement is required to meet an unexpected expense, there are no alternate resources available to the family unit to meet the expense, and failure to meet the expense will result in imminent danger to the physical health of any person in the family unit or the removal of a child under the *Child, Family and Community Service Act*. The ministry argues that utility costs cannot be considered as an unexpected expense as it is a regular ongoing expense and the standard practice is for a succession of letters to be sent by the hydro company prior to a final disconnection notice. The ministry points out that it was the appellant's decision to have the utility bill put into her name and to assume liability for the full account. The ministry also argues that there are resources available to the appellant to pay for hydro costs, as the monthly assistance amount is for the purpose of covering shelter costs, including utilities. As well, the ministry points out that the appellant has not fully explored alternate resources in the community to pay for the hydro costs and has not provided sufficient evidence that she tried to arrange a payment plan with the hydro company or to contact the other residents of the house to pay a portion of the expense. The ministry also argues that the appellant has not provided sufficient information to establish that failure to meet the hydro expense will result in imminent danger to the physical health of any person in her family unit, or removal of a child under the *Child, Family and Community Service Act*.

The appellant acknowledges that she assumed responsibility for the hydro bill for the entire premises when she moved into a house in November 2011 and the panel finds that the cost for hydro is a regular utility

expense for which there is a history of past bills and that the appellant could make inquiries and inform herself prior to assuming this responsibility. The panel finds that the possible malfunctioning of electric base heater switch plates is an issue to be addressed with the landlord of the premises, and there is no evidence that there was an increase in the amount of the hydro bill, other than the security deposit, or that this was the cause of any increase. The panel finds that the ministry's determination that hydro costs are not an "unexpected expense", under Section 57(1)(a) of the EAPWDR, was reasonable. The panel also finds that the appellant has not provided sufficient evidence to demonstrate that there are no resources available to the family unit as there is no evidence of efforts made by the appellant to collect a share of the hydro cost from the other residents, the ministry was advised that no payment plan was in place with the hydro company, and the appellant is in receipt of monthly assistance which includes an amount for shelter costs. The panel finds that the ministry's conclusion that it cannot be determined that there are no resources available to the family unit to meet the expense, under Section 57(1)(a) of the EAPWDR, was reasonable.

Although the appellant states that one of the residents of the house has diabetes and that hydro services are needed to keep her insulin refrigerated, the panel finds that there is no evidence that this resident is part of the appellant's family unit. The panel also finds that there is no evidence provided by the appellant from a health professional to support a claim that failure to cover the cost of hydro "will" result in danger to the appellant's physical health or that of her children, and that this danger is "imminent", or about to occur. Therefore, the panel finds that the ministry's conclusion that there is not sufficient information to establish that failure to meet the hydro cost will result in imminent danger to the physical health of any person in the appellant's family unit, pursuant to Section 57(1)(b)(i) of the EAPWDR, was reasonable. Although the appellant states that a lack of hydro will mean the removal of her children due to lack of proper living conditions, the panel finds that there is no supporting evidence of any steps being taken to apprehend the appellant's children under the *Child, Family and Community Service Act*, and the panel finds that the ministry's determination that there is not sufficient evidence to establish that failure to provide a supplement for hydro costs "will" result in the removal of the appellant's children, pursuant to Section 57(1)(b)(ii) of the EAPWDR, was reasonable.

The panel finds that the ministry's reconsideration decision, which denied the appellant's request for a crisis supplement for the cost of utilities because the requirements of Section 57 of the EAPWDR were not met, was reasonably supported by the evidence and the panel confirms the ministry's decision.