

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision dated September 26, 2012 which denied the appellant's request for a crisis supplement to cover September 2012 rent. The Ministry held that the requirements of Section 59 of the Employment and Assistance Regulation (EAR) were not met as the ministry found that:

- rent costs are not an unexpected expense;
- there is insufficient information to establish that there are no resources available to pay September 2012 rent as it has been paid; 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 the removal of a child.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR), Section 59

Employment and Assistance Act (EAA), Section 4

PART E – Summary of Facts

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

- 1) Residential Tenancy Agreement in the name of the appellant and another person, as tenants, to start on September 1, 2012 at a rent of \$1,200 each month; and,
- 2) 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 stated that on August 29, 2012 she found out that her shelter cheque was sent to her previous manager by mistake. On September 1, 2012 she told the ministry what happened and her mother got her cheque. In the meantime, she had to move out from her old place to the new place so she paid her new rent with her support money and now she has nothing.

In her Request for Reconsideration, the appellant stated that on August 15, 2012, she and her mother went to the ministry's office and provided "...our new lease agreement." The appellant stated that she thought everything was done and she waited for her assistance cheque. On August 29, 2012, she found out that her shelter cheque was sent to her previous manager by mistake. On September 1, 2012, she told the ministry what happened and her mother got her cheque. In the meantime, she had to move out from the old place to the new place so she paid her new rent with her support money and now she has nothing. The appellant stated that it is not her fault since she informed the ministry on time, on August 15, 2012.

At the hearing, the ministry stated that an interpreter would be arranged for the appellant for any appointments with the ministry but sometimes clients will also attend at the ministry office with a friend or family member who can translate for them. The ministry's evidence is that the appellant moved to a new address on September 1, 2012. The ministry has no record that the appellant went to the ministry office on August 15, 2012 or that the appellant let the ministry know that she was moving before August 29, 2012. At the hearing, the ministry clarified that there is a record that the appellant's mother submitted a shelter document for herself in mid-August but the appellant's name was not on it. The ministry stated that each client must submit a separate shelter document to the ministry. On August 29, 2012 the appellant went to the ministry office and told them her rent cheque had gone to her previous address and provided the ministry with two pages of a six page Tenancy Agreement. The ministry explained that the cheques for shelter allowance were issued on August 26, 2012. The ministry suggested to the appellant that she try to get the rent back from her previous landlord, however the landlord had cashed the September rent cheque. At the hearing, the ministry stated that a minimum of 30 days notice is usually required to end a tenancy where the rent is paid monthly, but that the ministry does not get involved in residential tenancy matters and the clients must resolve issues directly with their landlords. The ministry added that the appellant has not received an eviction notice because the rent has been paid. There are no dependent children in the appellant's family unit.

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 rent costs, as the requirements of Section 59 of the Employment and Assistance Regulation (EAR) were not met, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the appellant's circumstances.

Section 59(1) of the EAR sets out the eligibility requirements which are at issue on this appeal for providing the crisis supplement, as follows:

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*. ...

The appellant's position is that her September rent cheque was mistakenly sent by the ministry to her previous manager, or landlord. The appellant argues that she provided her new lease agreement to the ministry on August 15, 2012 and she thought everything was done. The appellant argues that she needed to pay rent for her new place on September 1, 2012 and that she used her support money to do this and now she has nothing. The appellant argues that it was unexpected that she would have to use her support money to pay the rent at her new residence because her September shelter cheque was sent to her old residence.

The ministry argues that the provisions of Section 59 of the EAR 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. The ministry argues that rent is a monthly expense and payment of the September rent at the appellant's new residence was not an unexpected expense or an unexpected need as the appellant knew in mid-August that she was moving in September. The ministry argues that the appellant did not let the ministry know that she was moving until August 29, 2012 which resulted in her September 2012 rent going to the wrong address but this was not unexpected. The ministry also argues that the information does not establish that there are no resources available to pay September 2012 rent as the rent has been paid. The ministry argues that the information does not establish that there is an imminent danger to the appellant's physical health if she does not receive a crisis supplement for September rent since the rent has been paid. The ministry points out that there are no dependent children in the appellant's family unit.

The appellant stated in her Request for Reconsideration that she and her mother went to the ministry office on August 15, 2012 and provided "...our new lease agreement" and the ministry stated that its records show that the appellant's mother attended on this date with her own shelter document that did not have the appellant's name on it. The appellant acknowledges that her mother received her cheque and the panel finds that the ministry was not advised of the appellant's new address until August 29, 2012, after the cheques for shelter allowance had been issued. The panel finds that the ministry reasonably concluded that the payment of September 2012 rent was not unexpected, that the cheque was issued by the ministry but sent to the previous landlord. The panel finds that the ministry's determination that the expense for September 2012 rent was not an "unexpected expense", under Section 59(1)(a) of the EAR, was reasonable.

Although the appellant stated that she needed to use her support allowance to pay rent at her new residence and "now she has nothing", the panel finds that the ministry issued a cheque on the appellant's behalf for September 2012 rent and that the appellant is responsible for retrieving any amounts to which she may be entitled from the previous landlord. 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 59(1)(a) of the EAR, was reasonable.

The panel finds that there is no evidence that the appellant has received an eviction notice from her landlord and there are no dependent children in the appellant's family unit. The panel finds that the ministry paid the September 2012 rent on the appellant's behalf but that it was sent to her previous landlord because the ministry was not advised of the appellant's new address until after the cheques had been issued. The panel finds that the ministry's conclusion that there is not sufficient information to establish that failure to meet the September 2012 rent will result in imminent danger to the physical health of any person in the appellant's family unit or the removal of a child, pursuant to Section 59(1)(b) of the EAR, 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 September 2012 rent because the requirements of Section 59 of the EAR were not met, was reasonably supported by the evidence and the panel confirms the ministry's decision.