

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision of October 24th, 2012 wherein the ministry determined the appellant was not eligible for a crisis supplement for shelter (rent) because the appellant had not provided the ministry with sufficient information to establish that she required a crisis supplement to meet an unexpected expense or obtain an item unexpectedly needed as set out in section 59(1)(a) EAR. The ministry was satisfied that the appellant does not have any resources available to her to pay for her rent.

Further, the ministry determined that failure by the ministry to provide the crisis supplement for shelter (rent) will not result in imminent danger to the physical health of any person in the family unit or the removal of a child under *Child, Family and Community Service Act* as set out in section 59(1)(b) EAR.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR), section 59

PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration:

- Request for reconsideration dated October 12th, 2012 with an attached letter from appellant
- 10-day Notice to End Tenancy for Unpaid Rent dated October 5th, 2012 issued to the appellant indicating rent owing as October being \$925.00.

In the letter the appellant stated that on October 9th, 2012 she applied for a crisis supplement for shelter to pay her rent because on October 3rd her ex-spouse, who had been providing child maintenance on a regular basis for the past three years, advised her that he had been injured at work and was not able give her the child support payment of \$577. The appellant had completed her October assistance stub when she picked up her August assistance cheque and anticipating she would receive the child maintenance payment included this as income which was deducted from the amount of assistance paid by the ministry. When the appellant learned her ex-spouse was not going to make the maintenance payment she immediately returned to the ministry office to advise them. The worker advised the appellant the only way she may be eligible for a crisis supplement for shelter was to get an eviction notice from her landlord. The appellant received an eviction notice from her landlord which was dated October 5th, 2012 advising that if the October 2012 rent was not paid within five days she would be required to move out. The appellant advised the ministry that back to school costs, children's birthdays, tires for her car, car insurance and child care expenses were additional expenses that she had incurred in September and now she did not have the money for the October rent. The appellant advised she had incurred these expenses because she was expecting the \$577 support payment and when it did not arrive she did what she could and was able to raise \$255 towards her rent. The appellant advised the ministry that although she was hired for a full-time job several months ago the start date has been delayed but she is hopeful that she will start full-time work soon.

At the hearing the appellant testified that when she contacted the ministry the worker did not ask about the cash shortfall between the maintenance payment and the amount of the rent (shelter). The appellant testified that in addition to the maintenance payment her ex-spouse did not give her his half of the expenses for the birthday party, pre-school services, et cetera. The appellant testified that she was expecting to receive \$792 from him, not just the \$577 maintenance payment. The appellant testified that she was also expecting \$200 from another tenant in the building because she had paid some utilities that are shared and the other tenant was to repay her but didn't. The appellant testified she purchased the car insurance and the car tires at the end of September from the money she received from Canada Child Tax Benefits (CCTB) and before her ex-spouse informed her that he would not be paying his maintenance payment so she did not have an opportunity to keep that money aside knowing that she would not have that money for her rent (shelter costs). The appellant testified that her ex-spouse does have anger issues but because they live in the same community she is not concerned for the safety of their children because she can pick them up anytime. The appellant testified that his issue is lack of patience more than anything else and therefore if she feels he needs help he can either call her or he will take the children to his parents' home. She testified her ex-spouse only has the children one day a week and every second weekend. The appellant testified that because her in-laws also live in the same community the ex-spouse's parents will assist with babysitting, if it is needed. The appellant testified that she was frustrated with the ministry's system to grant or approve the crisis supplement because the ministry kept changing the dates on when the supplement would be approved and since she only had 5 days, according to the eviction notice, to pay her rent or she would be evicted the whole situation became very stressful. The appellant testified that even though the landlord issued the eviction notice he allowed her to stay in her place and make a late rent payment.

The panel finds the testimony from the appellant contains information or evidence that is in support of the information and record that was before the ministry at the time the reconsideration decision was made and therefore is admissible as evidence under section 22(4) Employment and Assistance Act (EAA).

At the hearing the ministry relied on the facts in the reconsideration decision.

Findings of Fact

- The appellant is a single parent with 2 dependent children.
- The appellant owes \$925 for rent for October.
- The appellant receives one half of the CCTB which totals \$338.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration wherein the ministry determined the appellant was not eligible for a crisis supplement for shelter (rent) because the appellant had not provided the ministry with sufficient information to establish that she required a crisis supplement to meet an unexpected expense or obtain an item unexpectedly needed as set out in section 59(1)(a) EAR.

Further, the ministry determined that failure by the ministry to provide the crisis supplement for shelter (rent) will not result in imminent danger to the physical health of any person in the family unit or the removal of a child under *Child, Family and Community Service Act* as set out in section 59(1)(b) EAR.

The relevant legislation:

Crisis supplement - Section 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, and
 - (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.

The ministry argued that while it was unexpected that the appellant did not receive the \$577 maintenance payment from her ex-spouse, the eviction notice dated October 5th, 2012 stated that the appellant owes \$925 for rent (shelter) which, had the maintenance payment been received, would still leave \$348 in unpaid rent. The ministry also argued the additional expenses that the appellant incurred are not unexpected but are, in the ministry's opinion, expenses that the appellant incurred despite knowing that she needed \$925 to pay her shelter costs (rent). The ministry argued that the appellant had not provided information to establish that the crisis supplement for shelter is required to meet an unexpected expense, or obtain an item unexpectedly needed, as generally one must pay their rent.

The appellant argued that once the maintenance payment was not received from her ex-spouse that the rent payment became an unexpected expense since she did not have the money to pay the rent (shelter). The appellant argued that she bought her car insurance and the car tires at the end of September from her CCTB

prior to her ex-spouse telling her that he would not be making her maintenance payment. The appellant argued that she had completed the income stub earlier than required (when she picked up the August cheque) and included the maintenance payment on her stub as she has always done and because this amount is deducted from her assistance her monthly income was significantly reduced. The appellant argued that her ex-spouse has been very good about making his maintenance payments; that she did not know that he had hurt himself at work and therefore was not concerned that he would not make the payment as he had done in the past. The appellant argued that when her ex-spouse did not pay her the maintenance support (which she was legally entitled to receive) which she was relying upon to pay the rent, paying the rent became an unexpected expense.

Section 59(1)(a) EAR states that the ministry may provide a crisis supplement to a family unit if the supplement is required 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.

In the reconsideration the ministry acknowledged the appellant has provided information to establish that she does not have resources available to pay for her rent on her own; that the appellant did make attempts to raise money on her own to pay for the rent and that the maintenance payments have been disrupted.

The panel finds that the ministry's position is that the appellant did not provide sufficient information to establish that the shelter supplement was required to meet an unexpected expense or obtain an item that was unexpectedly needed; that she knew she had to pay rent every month and chose to make other purchases – car insurance and car tires - therefore the rent cannot be considered as unexpected or an item that is unexpectedly needed. The appellant accepted in her testimony that rent is not an unexpected expense but argues that she made these purchases before she knew her ex-spouse was not going to make the monthly maintenance payment. The ministry's position is that the appellant's rent is \$925 and had the appellant received the maintenance payment (\$577) she would still have needed \$348 to cover the rent. The appellant testified that she was expecting to receive \$729 from her ex-spouse and \$200 from a tenant (utilities) which would have covered the rent but when she did not receive this money the rent payment became an unexpected expense.

The panel finds the ministry's decision that the appellant did not provide sufficient information to establish that she needed the supplement to meet an unexpected expense or obtain an item unexpectedly needed to be reasonable. The panel finds that the appellant chose to purchase car insurance for 3 months and two car tires when she did not have money set aside to pay her rent. The appellant testified that she paid \$300 for the car tires and 3 months of car insurance from the CCTB but she only receives ½ of the CCTB allowance which is \$338 per month which supports the ministry's argument that the appellant was already short of funds to pay for her rent. The panel finds the appellant was relying on a series of tangible circumstances to pay her shelter costs and when she didn't receive the money she had anticipated, the appellant found she was unable to pay her October rent. However as this evidence indicates a lack of resources, it does not establish that the October rent was an unexpected expense.

The panel finds that the evidence supports the ministry's decision that the appellant did not provide sufficient information to establish that she required a crisis supplement for shelter to meet an unexpected expense or obtain an item that was unexpectedly needed and the panel finds that the ministry reasonably determined that the appellant did not meet all the criteria set out in section 59(1)(a) EAR.

In reference to section 59(1)(b)(i) and (1)(b)(ii) EAR the legislation states:

- Section 59(1)(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 ministry argued that information had not been provided to establish that if the ministry failed to pay for the

appellant's rent that it would result in imminent danger to the physical health of any person in the family unit or the removal of a child from the appellant's home under the *child, Family and Community Service Act*. The ministry further argued that the appellant's children could stay with the appellant's ex-spouse. The appellant testified that she did not feel her children were in any imminent danger or the situation (being evicted) would result in her children being in imminent danger or result in the children being removed from the home by another agency as her ex-spouse has joint custody and the children have stayed with her ex-spouse's parents as well. The appellant stated that she felt the ministry was being insensitive to her situation.

The panel finds there is no evidence before the panel that if the ministry failed to provide the appellant a crisis supplement to pay the appellant's rent that it would result in imminent danger to the physical health of any person in the family unit or the removal of a child from the appellant's home under the *child, Family and Community Service Act*.

The panel finds that the ministry's decision to determine that failure to meet the expense or obtain the item unexpectedly needed would not result in the imminent danger to the physical health of any person in the family unit or the removal of a child under *Child, Family and Community Service Act* was reasonable and that the criteria set out in section 59(1)(b) EAR was not established.

The panel finds that the ministry's reconsideration decision is supported by the evidence and confirms the decision pursuant to section 24(1)(a) and 24(2)(a) of the EAA.