

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision of February 22nd, 2013 wherein the ministry determined the appellant was not eligible for a crisis supplement (for rent) under section 57(1) Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). The appellant did not meet the legislated criteria set out in section 57(1)(a) EAPWDR; that she needed the supplement to meet an unexpected expense or obtain an item that was unexpectedly needed, and further, that she did not have resources available to the family unit to meet the expense or obtain the item that is unexpectedly needed.

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 the *Child, Family and Community Service Act* as set out in section 57(1)(b) EAPWDR.

PART D – Relevant Legislation

Employment and Assistance For Persons with Disabilities Regulation (EAPWDR), section 57(1)

PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration:

1. Province of BC Violation Ticket for no driver's license issued November 21st, 2012;
2. Province of BC Notice and Order issued November 21st, 2012 to replace vehicle headlamp;
3. Sales slip for halogen bulb in amount of \$26.92 dated December 6th, 2012;
4. Invoice in amount of \$21.28 for tire repair dated December 28th, 2012;
5. Appellant's bank account history for the month of December 2012;
6. Undated note stating the appellant was sold 2 tires at \$80 each = \$160.00;
7. 10 Day Notice to End Tenancy for Unpaid Rent dated January 8th, 2013;
8. 10 Day Notice to End Tenancy for Unpaid Rent dated February 12th, 2013;
9. Request for Reconsideration signed by appellant on December 13th, 2013 and stamped by the ministry on February 13th, 2013.

In January 2013 the appellant was approved for Persons with Disabilities designation (PWD) and her monthly support was increased by \$248.50. On January 8th, 2013 the appellant had received a 10 Day Notice to End Tenancy for Unpaid Rent. The appellant applied for a crisis supplement to pay for the rent but on January 13th, 2013 her request was denied. The ministry was informed she was unable to pay her rent because she had a number of unexpected personal and vehicle expenses; 1) the tires on her car had been slashed and she had to purchase replacement tires; 2) she had been stopped by the police and received a ticket for driving with an expired driver's license and had to renew the license within a specific time frame or pay a fine; 3) she was also required to replace a headlamp on her car within a specific time frame; 4) she had to repair a flat tire on her car; and 5) the fridge where she was living quit working and was out of service for a week which resulted in her having to dispose of some food. The ministry file indicates the appellant paid out \$181.82 to replace the damaged tires and was offered this amount to offset her outstanding rent but the offer was declined.

At the hearing the appellant testified that until September 2012 the ministry had paid her rent directly to the landlord but since that time she has received Family Maintenance Enforcement payments (FMPE) and paid the rent herself. The appellant testified the FMPE goes directly into her bank account and the ministry deducts these payments as income which resulted in the appellant receiving an overpayment(s) that must be repaid. The appellant testified that in addition to her other expenses, in December the ministry made an automatic withdrawal from her bank account because of her overpayment situation and her debt owed to the ministry. The appellant testified that when she received the eviction notice she attended the ministry office to request assistance to pay her January rent but her request was denied. The appellant testified the ministry did not offer her \$181.82 to cover her costs to replace the tires.

The panel finds the appellant's testimony does contain information 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) of the Employment and Assistance Act (EAA).

The ministry relied on the facts as stated in the reconsideration decision.

The panel makes the following finding of fact:

1. PWD designation was approved for appellant in January 2013 and her rate of support was increased by \$248.50.
2. The appellant received a 10 Day Notice to End Tenancy for Unpaid Rent dated January 8th, 2013;
3. The appellant had vehicle tire replacement & repair costs of \$160.00 + 21.82 + \$181.82;
4. The appellant purchased a headlight bulb for \$26.92;
5. The appellant received a 10 Day Notice to End Tenancy for Unpaid Rent dated February 12, 2013.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration decision which determined the appellant was not eligible for a crisis supplement for shelter under section 57(1) EAPWDR 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; and further, that the appellant is unable to meet the expense (pay her rent) because there are no resources available to the family unit.

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 the *Child, Family and Community Service Act* as set out in section 57(1)(b) EAR.

The legislation considered: EAPWDR

Section 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 ministry argued that the appellant had not provided information to establish that she needed a crisis supplement to meet an unexpected expense or obtain an item that was unexpectedly needed. The ministry argued the essence of the issue is that rent is a monthly expense and is not considered unexpected. The ministry argued the appellant has a history of not declaring her FMEP which resulted in an overpayment situation. The ministry argued that when the appellant attended to the ministry office requesting money for her January rent the appellant was offered \$181.82 towards shelter and service for an assessment of a crisis supplement for food but the appellant declined this assistance and departed from the ministry office.

The appellant argued that she did not decline the \$181.82 and that she needed money and would have accepted the assistance. The appellant argued that in September 2012 the ministry stopped paying her rent directly to her landlord because she hadn't reported the FMEP income. The appellant acknowledged that she owes the ministry money due to an overpayment on assistance because of the FMEP income and that in December the ministry made an automatic withdrawal from her account to repay some of her debt. The appellant argued the FMEP income results in a dollar for dollar being deducted from her assistance and, in her opinion, are not accurate. The appellant argued she had a number of expenses that were unexpected that resulted in her needing assistance in paying her January rent.

The panel finds the evidence supports the ministry's position that the appellant does not qualify for a crisis supplement for her January rent because the appellant has been paying her rent herself since September 2012 and the payment of monthly rent cannot be considered an unexpected expense or an item that is needed unexpectedly.

Therefore, the panel finds that the ministry's decision that the appellant was not eligible for a crisis supplement to pay her January rent because she was required to meet an unexpected expense or obtain an item that was unexpectedly needed was reasonable.

Further, in reference to section 57(1)(a) EAPWDR - regarding resources available to the family unit to meet the

unexpected expense or obtain the item unexpectedly needed - the ministry argued that it was not established that the appellant had no resources available to pay her rent on her own as she receives monthly disability assistance, that she did not indicate that she was unable to make a payment agreement with her landlord and that she chose to spend her money on other things. The ministry also argued the appellant was offered \$181.82 to offset her expenses and assist with the rent payment but the offer was declined.

The appellant argued that she did not have resources available as she had exhausted all her funds with the extraordinary expenses and that the FMEP is deducted from her monthly disability assistance. The appellant also argued that the ministry did not offer her the \$181.82.

The panel finds that the evidence does not establish that the appellant did not have resources available to pay the rent on her own as she did have a monthly increase of assistance as a result of her PWD designation and the second eviction notice dated February 12, 2013 indicates that the appellant addressed the January eviction notice.

The panel finds the ministry's determination that the appellant had resources available to the family unit to address the January rent was reasonable.

Section 57(1)(b) EAPWDR requires that the minister considers that failure to meet the expense or obtain the item unexpectedly needed will 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*.

The ministry's position is that the appellant did not provide any information to establish that the appellant's failure to pay the rent would result in imminent danger to the physical health of any person in the family unit and the appellant offered no information to the contrary at the hearing.

Neither party provided any evidence that the ministry considered that failure by the ministry to provide the supplement (payment of rent) will result in the removal of a child under the *Child, Family and Community Service Act*.

The panel finds there is no evidence that the family unit will be in imminent danger if the ministry did not provide the supplement for rent. The panel finds that the ministry reasonably determined that failure to provide a crisis supplement to pay the appellant's 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 the *child, Family and Community Service Act*.

The panel finds the ministry reasonably determined that the appellant failed to meet the criteria in section 57(1) EAPWDR and therefore the ministry's decision not to provide the appellant with a crisis supplement for rent was reasonable.

The panel finds that the ministry's reconsideration decision is a reasonable application of the legislation in the circumstances of the appellant, and accordingly confirms the decision pursuant to section 24(1)(b) and 24(2)(a) of the Employment and Assistance Act.