

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision of January 14th, 2013 wherein the ministry denied the appellant's request for a crisis supplement because she did not meet all four of the requirements set out in section 57(1)(a) EAPWDR. The ministry was satisfied that the appellant met the requirement set out in section 57(1) but not those set out in section 57(1)(a) that the expense was unexpected and there were no resources available; and section 57(1)(b) that failure to meet the expense would result in imminent danger to the physical health of the appellant.

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 reconsideration:

- 10-Day Notice to end Tenancy dated December 5th, 2012
- Telephone bills dated October 27th, November 27th and December 27th, 2012
- Bank Statement dated December 10th, 2012
- Letter from physician dated April 13th, 2012 stating the appellant has been suffering from schio-affective disorder for several years and recently has had a number of episodes of mania that have resulted in overspending and hospitalization.
- Note from different physician dated November 16th, 2012 providing the same diagnosis for the appellant and stating that the appellant suffered a manic episode in "Sept, October 2012 and Nov."
- Request for reconsideration dated December 20th, 2012

The appellant is a recipient of disability assistance who has been diagnosed with schio-affective disorder and during the months of September, October and November suffered episodes which affected her behavior and impacted on her habit of spending. On December 6th, 2012 an advocate for the appellant contacted the ministry and applied for a crisis supplement for rent (\$375.00) to avoid the appellant from being evicted from her (appellant) home for failing to pay the December rent. On December 13th, 2012 the advocate contacted the ministry advising the appellant had resolved the issue of her eviction by borrowing money from friends, family and from utilizing money received from the ministry for clothing, however, the appellant was still requesting a supplement for rent because she needed to repay the money she had borrowed. The ministry denied the supplement. On the appellant's request for reconsideration the appellant advised the ministry she still needed the crisis supplement for rent (\$375.00) as she had spent the rent money on her phone bill and other purchases. The appellant advised the ministry that she suffered a manic episode that contributed to the spending and phone usage and provided the ministry with medical documentation to support her health issues and copies of her phone bills and bank statement. Although the ministry acknowledged the appellant's medical condition the ministry denied the crisis supplement for rent because the appellant had resolved her issue by utilizing other resources available to her to pay the rent.

Prior to the hearing commencing the appellant submitted the following for the panel consideration:

- A two page letter (undated) was faxed to the tribunal on February 7th, 2013. In the letter the appellant related the personal and household items that she had given away during her manic episode.

The ministry advised they had not received this document, however, the appeal record shows this document was faxed to the ministry on February 8th, 2013. The document was read by the appellant.

The panel finds this document does not contain 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).

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

The appellant testified that her manic episode started in September 2012. The appellant described many different circumstances that she went through because of her mental condition that she would not have normally experienced, i.e. that in September after she received her assistance cheque she cashed her cheque and then kept all the money and then spent it; that she had cut up some cards and tried to use them for bus passes; that she started using taxi's for transportation and giving the driver's large tips and even visited a hair salon which she had not done for several years. The appellant testified that she believed she was moving and getting married and starting calling family and friends in Canada and internationally to tell them the exciting news. The appellant testified her telephone bill for October alone was over \$400. The appellant testified she

only paid part of the telephone bill in November and in December utilized her December assistance to pay the outstanding balance. The appellant testified the family has now intervened and had the phone service provider place a long distance blocker on her phone so this situation will not happen again. The appellant testified that when she discovered she didn't have any money for her December rent, and feared she would be evicted, she went to the ministry to request a rent supplement. The appellant testified that she also went to her family, and again, her sister lent her enough money to pay her December rent (\$373.00) which she needs to repay. The appellant testified that she had tried to set up an auto debit system between her landlord and the bank but the landlord will not take the money from her account earlier than the 1st of the month. Again the family has assisted her in setting up a separate account that she cannot access will be utilized for her rent. The appellant testified that she did visit her doctor while she was having this manic episode but he didn't hospitalize her which had been done in the past. The appellant testified that during her episode she gave away many household and personal items, some of which she had been able to retrieve, but many are gone and now she has to replace them which will cost hundreds of dollars. The appellant testified that she had only moved into subsisted housing last spring and before that she was homeless for more than two years so when she found herself without funds to pay her December rent she feared she would be evicted and homeless again.

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) Employment and Assistance Act (EAA).

The panel makes the following finding of fact:

1. The appellant is eligible to receive a crisis supplement under EAPWDR legislation.
2. The appellant paid her December rent from funds received from her sister.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration decision of January 14th, 2013 wherein the ministry denied the appellant's request for a crisis supplement because she did not meet all four of the requirements set out in section 57(1)(a) EAPWDR. The ministry was satisfied that the appellant met the requirement set out in section 57(1) but not those set out in section 57(1)(a) that the expense was unexpected and there were no resources available; and section 57(1)(b) that failure to meet the expense would result in imminent danger to the physical health of the appellant.

The legislation considered: EAPWDR

Crisis supplement

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*.
- (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 the appellant's request for a crisis supplement to pay her December rent because she had to use her rent money to pay a higher than normal phone bill does not meet the legislated criteria of being an unexpected expense or of obtaining an item that was unexpectedly needed. The ministry argued that the requirement to pay rent should not be considered unexpected. The ministry acknowledged that the appellant had a manic episode that was unexpected which may have resulted in a higher than normal phone bill, however, this circumstance does not meet the legislated criteria set out in section 57 EAPWDR. The ministry argued the appellant had CPP income and disability assistance income to pay her rent, however, the appellant chose to put that money towards the phone bill and other things.

The appellant argued that initially she needed the supplement for rent money (\$373) because she couldn't pay her rent but when she feared of being evicted she went to her family for assistance and was able to borrow the money. The appellant argued that she still needs the supplement to repay her sister for the money she

borrowed. The appellant argued that the manic episode she suffered caused her to spend money which she would not normally do and also resulted in her making long distance phone calls resulting in an extremely high phone bill. The appellant argued that she had no money to repay the loans because she had spent her funds on her phone bill and other expenses.

The appellant's advocate argued that the appellant's mental condition is well documented and everything that flows from that condition is unexpected. The advocate argued that as a result of this episode the appellant gave away her personal property and made purchases and long distance phone calls which she would not normally do which resulted in a higher than normal phone bill and a loss of money for unexpected expenses. The appellant argued her medical condition is supported by a physician's letter dated April 13th, 2012 and her doctor's note of November 16th, 2012.

The panel finds the evidence supports the ministry's position that the appellant does not qualify for a crisis supplement for her December rent because she was able to pay her rent and avoid eviction. The panel finds that 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 December rent because she did not meet the legislated criteria that the supplement 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) EAR - regarding resources available to the family unit to meet the unexpected expense or obtain the item unexpectedly needed - the ministry argued that the appellant had resources available to pay the rent as she borrowed money from her sister and also utilized money funds from a clothing allowance to pay the December rent and avoid eviction. The ministry argued that appellant had also her monthly shelter and support allowance and from her CPP to pay the rent but she chose to spend this money on other things.

The appellant argued that she was still in need of the supplement (\$373) to repay the money she had borrowed.

The panel finds the ministry's decision to determine that the appellant had resources available to pay her December rent was reasonable because she had her monthly support and CPP available to her.

In reference to section 57(1)(b) EAR – 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 argued the appellant was not in any danger of being evicted because she paid her rent and the appellant argued that although she was able to borrow money to pay the rent she did feel she was in danger of losing her accommodation, being evicted and being homeless again.

The panel finds there is no evidence before the panel that the appellant was in imminent danger if the ministry did not provide the supplement for rent as the appellant had borrowed the necessary funds to pay her rent and avoided eviction. The panel also finds the appellant is a single recipient of disability assistance and therefore that part of this legislation referring to the removal of a child under *Child, Family and Community Service Act* does not apply to this appeal.

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.

APPEAL #

The panel finds that the ministry's reconsideration decision is reasonably supported by the evidence and 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.