

### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (Ministry) reconsideration decision dated July 22, 2013 which held that the appellant was not eligible for a crisis supplement for rent pursuant to Section 5 of the Employment and Assistance for Persons with Disabilities Act (EAPWDA) and Section 57 (1) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). The ministry determined that the appellant meets the criteria of subsection 1 of Section 57 of the EAPWDR as the appellant is eligible for disability assistance. However, the ministry determined that the appellant's need was not unexpected, that he had other resources to meet his need and that failure to receive the requested crisis supplement will not result in imminent danger to his physical health nor would cause the removal of a child as required by Section 57 (1) (a) and, (b) (i) and (ii) of the EAPWDR.

### PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act – EAPWDA- Section 5

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 consists of:

- 1) The ministry's records which included evidence that the appellant is a Person With Disabilities (PWD) in receipt of disability assistance and is currently receiving a \$700 per month for shelter, that his rent is \$750 and utilities are \$176.50, and that his rental debt is \$679.02
- 2) A hand-written letter dated July 8, 2013 signed by the appellant's wife, which in part summarizes that her and her husband have been contributing monies towards rent (\$1300), that paying their debts and for food are important, her husband's license is important as she is disabled and cannot walk, that paying for gas is important as it heats the water, hydro is important as it runs the fridge and stove and gives light, the phone is important because her husband has a heart condition and paying for the internet is important because her children are home schooled and need the internet for assignments.
- 3) A hand-written letter not dated or signed which explains that rent fell behind because all the deductions from the EI cheques, that \$1300 was paid by the appellant towards rent in addition to paying bills and feeding the children.
- 4) The Request for Reconsideration dated July 8, 2013

At the hearing, the appellant submitted a reconsideration decision dated August 13, 2013 which was read out by his representative, his wife. That reconsideration decision states that the appellant is not required to return a \$1026 overpayment for his June 2013 disability assistance, as the ministry made an error in applying the employment insurance he received in April 2013 to his June assistance since his eligibility date for disability assistance is May 1, 2013.

The ministry did not object to the admission of the above new evidence. The panel determined the additional evidence of the August 13, 2013 reconsideration decision was admissible under section 22(4) (b) of the Employment Assistance Act (EAA) as it was in support of the records before the minister at the time of reconsideration, namely it supported the appellant's claim that he fell behind in his rent because of the deductions made to his disability assistance due to his EI earnings.

At the hearing, the ministry relied on its reconsideration decision.

## PART F – Reasons for Panel Decision

The issue on the appeal is whether the ministry decision that the appellant's need for a crisis supplement for rent was not unexpected, that he had other resources to meet his need and that failure to receive the requested crisis supplement will not result in imminent danger to his physical health or would cause the removal of a child as required by Section 57 (1) (a) and, (b) (i) and (ii) of the EAPWDR, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

Section 57(1) of the EAPWDR sets out the eligibility requirements which are at issue on this appeal for providing 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*.

Section 5 of EAPWDA provides as follows:

### Disability assistance and supplements

5 Subject to the regulations, the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it.

### *The Ministry's Position*

The ministry's position is that rent is not an unexpected expense, rather a foreseeable and on-going expense, and that the appellant failed to provide evidence that due to an unexpected expense he was unable to meet his rental needs. The ministry holds that the \$679.02 was not for rent for the month in which it was requested. Rather, this amount was accumulated over several months of rent shortfall and was therefore an expected expense.

The ministry also argued that the appellant advised the ministry on July 19, 2013 that a local community agency agreed to assist with his request. At the hearing the ministry pointed out that the appellant stated that he was able to borrow monies from family to pay the rental debt from \$679.02 to \$50 and that the appellant has funds coming from support and child tax credit. The ministry added that the appellant chose to pay other debts, such as renewal of a driver's license, gas and electricity bills, phone bill and internet bill with funds provided for food and shelter. Therefore the ministry argues that the appellant has other resources available to him to meet his need. The ministry further points out that currently the appellant is working with the landlord and has not been evicted as confirmed by his advocate.

The ministry also argues that since the appellant has other resources available to him to meet his need and he has not been evicted, there is no imminent danger to physical safety or the removal of a child.

#### *The Appellant's Position*

The appellant's position is that the rent was only in arrears because the ministry wrongfully made deductions to his support cheques due to receipt of employment insurance as supported by the ministry's own reconsideration decision dated August 13, 2013. He argues that he has already paid over \$1300 towards rent from his own money and that he has not been evicted yet as he is working with the landlord and has paid his debt down to \$50 by borrowing from family. The appellant also argues that he had to pay his utility bills because he needs hot water and electricity in the home. He paid his phone bill because he and his wife are disabled and need a phone, his internet is important because his children are home schooled and require the internet for school work and that his driver's license is important because his wife cannot walk due to her disability.

#### **Panel Findings and Decision**

Section 57 (1) (a) of the EAPWDR states that the minister may provide a crisis supplement to or for a family unit that is eligible for disability assistance or hardship assistance if the family unit or person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed. The panel notes that the appellant paid \$1300 of his own money towards rent, and that the other debts (bills) he paid were all important and necessary to him. However, the appellant's rental debt was accumulated over several months so he was aware that he owed this amount. Therefore, the panel finds that the ministry reasonably determined that rent or accumulated rental arrears are not an unexpected expense but rather an on-going expense.

The panel also finds that the appellant had other resources within the community and family to help him meet his need. As stated by the appellant to the ministry on July 19, 2013, a local community agency agreed to assist him and as explained by the appellant he was able to borrow money from family to meet his need. Therefore the panel finds that the ministry reasonably determined that the appellant had other resources available to meet the need.

In respect to Section 57 (1) (b) (i) and (ii), the panel finds that there was no evidence before the ministry demonstrating that failure to pay his rental debt or an eviction would result in imminent danger to the health of someone in his family or the removal of a child. Therefore the panel finds that the ministry reasonably determined that the appellant did not meet the requirements set out in section 57(1) (b) (i) or (ii) of the EAPWDR.

The panel finds that the ministry's decision to deny the appellant's request for a crisis supplement for

APPEAL #

rent was a reasonable application of the legislation and was supported by the evidence. Therefore, the panel confirms the ministry's reconsideration decision.