

PART C – Decision under Appeal

The decision under appeal is the Ministry's Reconsideration decision dated September 23rd, 2013 which held that the appellant was not eligible for the requested crisis supplement because she had not met all three criteria set out in Section 57 of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR). The Ministry held that the need to pay for utilities is not unexpected, the appellant was able to meet the expense from resources available, and no information had been provided to show that failure to pay for the utilities would result in imminent danger to the appellant's physical health.

PART D – Relevant Legislation

EAPWDA S. 5 - *Employment and Assistance for Persons with Disabilities Act, Section 5:*

EAPWDR S. 57 - *Employment and Assistance for Persons with Disabilities Regulation, Section 57:*

PART E – Summary of Facts**The evidence before the Minister at reconsideration was:**

- March 6, 2013 – Installment Plan Notice from BC Hydro showing equal payments of \$50.50 monthly from April 2, 2013 to March 3, 2013;
- June 10, 2013 – billing from BC Hydro showing balance from previous bill of \$31.08CR, four payments made in April and May, current charges of \$270.48, and balance payable of \$342.01;
- July 9th, 2013 – Reminder from BC Hydro of amount due of \$618.71;
- July 23rd, 2013 – Final Notice of Disconnection from BC Hydro showing amount due \$618.72. The notice indicates that service would be disconnected without further notice unless payment in full was made immediately;
- August 9, 2013 – Handwritten note advising Hydro being cut off with notation of service request number SR 1-12965431574 on the page;
- August 9, 2013 – Billing from BC Hydro showing Installment plan cancelled –plan balance \$454.61, past due \$686.56, four payments made in June and July, balance of \$14.41CR, and new charges of \$209.17;
- August 12, 2013 – Installment plan notice from BC Hydro showing equal payments of \$20.53 monthly from September 4th, 2013 to August 5th, 2014;
- September 9, 2013 - request for reconsideration;
- Undated letter from the appellant's niece regarding the day she helped the appellant, August 9, 2013.

At the Hearing documents were received:

- the BC Hydro bill dated June 10th, 2013 and stamped by a bank August 9th, 2013 showing \$441.00 paid;
- the receipt from a bank dated August 9th, 2013 at 7:07 pm and showing payment of \$441.00 to BC Hydro and
- the billing from BC Hydro dated September 10th, 2013 showing the previous balance of \$686.56, payments of \$441.00 on August 12th, 2013, \$123.33 on August 28, 2013, and a further \$123.33 on August 28th, 2013

The panel determined that these documents were all admissible under section 22(4) of the EAA as they were in support of the records before the minister at reconsideration as they relate to the utilities at issue. The ministry did not challenge the appellant's introduction of this evidence.

In the request for reconsideration the appellant says:

- She had phoned Hydro after receipt of the final disconnection notice and was told that a

payment was missed and the equal payment plan which had been previously entered into had been cancelled;

- She was told by Hydro on August 8th, 2013 that the balance owing of \$618.71 had to be paid and the appellant was given until midnight on Friday August 9th 2013 to make payment
- As far as the appellant knew her power would be cut off if payment was not made by midnight on Friday August 9th.
- She contacted Hydro again August 9th and was told that the ministry had not done anything about the bill and they would still disconnect unless \$450 was paid.
- The appellant spoke with her roommate and he phoned a friend and the appellant borrowed \$450 and made a \$441 payment to Hydro at 7:00 pm on Friday August 9th.
- The appellant reconfirmed that the \$450 borrowed to prevent disconnection had to be repaid as soon as possible.
- The letter from the appellant's niece regarding her assistance in driving the appellant to the ministry office on August 9th confirmed that the service worker who assisted on the first occasion indicated the request would be given highest priority. On the second occasion later in the day the appellant was advised the matter would take time to process.

In the Notice of Appeal the appellant said:

- she disagreed with the Ministry's reconsideration decision because it was the Ministry's fault for the disconnection, as they missed a payment;
- She referred to her previous four pages handwritten which had formed a part of the request for reconsideration.

At the hearing the appellant said:

- it was Monday August 12th, 2013 when the appellant was advised she was not eligible for a crisis supplement for utilities, not August 8, 2013 as indicated in the reconsideration decision, Summary of Facts section;
- In addition to the efforts mentioned in her request for reconsideration on Friday August 9th she had also phoned the RCMP to see if she could get an emergency social service worker involved but they could not;
- As late as 4:30 pm the appellant had a phoned call with hydro who said they would not keep her power on until Monday unless she could pay the \$441 towards her bill.
- The appellant had recently done a large shopping and was concerned about food spoilage if the power was cut.

- The appellant had asked the ministry worker who advised her if food lost the most she could recover would be \$20
- The appellant is on heavy medications and has difficulty managing her personal affairs and for the past two years the Ministry has paid her Hydro bills direct;
- The appellant thought when the July 9th statement was received that it was a mistake. Two weeks later when the Final Notice of Disconnection was sent, on receiving that she realized there was a problem.
- BC Hydro knew the Ministry had been making her payments direct.
- The appellant thought the Hydro bills were all taken care of because she had an equal payment plan in place.
- The appellant's income assistance slips do not show what payments are made but show a lump sum deduction.
- The notice saying \$618.17 was owing in the July 23rd Final Notice of Disconnection was a totally unexpected expense.

The Ministry relies on their Reconsideration Decision which says:

- The appellant is currently receiving disability assistance as a single person and her file was opened in July, 2001;
- The ministry worker noted that the ministry had been sending \$114.51 per month to BC Hydro since April;
- A previous arrears amount had not been paid;
- The ministry contacted Hydro to request delay of disconnection;
- On August 12th the appellant advised she had borrowed money to pay hydro bill;
- The bill dated August 9th, 2013 from hydro for \$686.56 was not current and does not list the \$450 payment the appellant said she made;
- The August 12th, 2013 installment plan notice indicates \$246.36 is owing and makes arrangements for installments of \$20.53 and none of these monthly payments are unexpected;
- The obligation to repay \$450 borrowed is not unexpected because the obligation to repay a debt is knowingly assumed;
- No information was provided to establish that failure to pay for utilities or repay the \$450 borrowed would result in imminent danger to the appellants health
- Because the legislated criteria have not been met the appellant was not eligible for crisis

supplement

At the Hearing the Ministry added:

- this is a complicated case;
- Hydro is in the appellant's name and the equal payment plan is split with the appellant paying 50% and her roommate paying 50% of the equal payment amount.
- The ministry's representative had just spoken with hydro on the morning of this appeal and clarified with Hydro that the account was reviewed every 105 days and useage is currently \$179 monthly which use would be split between the appellant and her roommate for a total now of \$89 off of each cheque and the Ministry had made these new payment arrangements;
- The Ministry did not miss a payment and the ministry's representative had confirmed with Hydro on the morning of this appeal that on the anniversary date when Hydro reviewed it the equal payment plan had not been covering usage, so the over usage was what added up to the amount owing.
- The ministry confirms that they had no knowledge of the over useage and that the bill for the over useage was unexpected to the appellant.
- The ministry's representative stated in her opinion that if the power had been disconnected they would have dealt with it.
- The appellant found the resources to partially pay the bill and the ministry is not permitted to give crisis supplement to repay that debt.

PART F – Reasons for Panel Decision

The issue to be decided is whether the ministry's decision to deny a crisis grant for utilities, pursuant to section 57 of the EAPWDR was reasonably supported by the evidence or a reasonable application of the enactment in the circumstances of the person appealing the decision.

Section 57 of the EAPWDR states:

- 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*.

Re: Unexpected Expense

The appellant says:

- She was on an equal payment plan with ministry paying her Hydro and thought all ok;
- When she received a reminder notice on July 9th for overdue \$618 she thought the billing was a mistake;
- On receipt of the final notice of disconnection dated July 23rd which was sent two weeks after the reminder notice, she realized there was a problem and tried to sort it out directly with Hydro first.
- The appellant agrees she assumed that the ministry was aware of the money owing as they had been arranging the payments and payments to Hydro were made direct by the ministry
- This situation was totally unexpected to her as she thought the payments were being made by the Ministry

The Ministry says:

- None of the monthly payments are unexpected;
- An obligation to repay a debt is knowingly assumed when money is borrowed.
- The need to pay the \$450 borrowed is not unexpected.

The Panel finds:

- The ministry had set up an equal payment plan with Hydro to cover the appellants hydro bill
- The Hydro bills are very confusing to understand ;
- On first being informed of the past due amount on June 10, 2013 the appellant thought it

was a mistake

- On receipt of the Final Disconnection notice sent 2 weeks later on July 23rd the appellant then realized there was a problem;
- While Hydro is not typically an unexpected expense because it is a utility expense for which regular bills are received by the appellant as the account holder, the panel finds this particular billing was an unexpected expense to the appellant in the circumstances. The evidence demonstrates that the ministry has been paying the appellant's hydro account directly as a deduction from her assistance and that an equal payment plan had been set up by the ministry to cover the cost of hydro at the appellant's residence. When Hydro conducted a review of the appellant's account and determined that an additional amount of \$618.71 was owing, based on useage of hydro, the panel finds that there was insufficient notice provided by Hydro to allow the appellant time to bring this account to the ministry's attention. A letter with the threat of immediate disconnection was sent two weeks following the innocuous first letter to the appellant on July 9, 2013. While the appellant did not bring the disconnection notice to the ministry's attention right away, which would have given more time for the issue to be resolved by the ministry, she had made attempts to deal with Hydro directly and was faced with continual threats to disconnect her hydro within 24 hours.
- The panel finds that the ministry's determination that the outstanding amount to Hydro is not an "unexpected expense," under Section 57(1)(a) of the EAPWDR, was not reasonable in these circumstances.

Re: Inability to meet the expense because no resources available

The appellant says:

- she does not have resources.
- Through her roommate she found someone who lent her the money but it has to be repaid.

The Ministry says:

- Information has not been provided to establish the appellant has no resources as she borrowed money and a monthly payment plan is in place to pay the balance.

The Panel finds:

- The appellant was able to borrow money to partially cover the unexpected debt to Hydro;
- As she had found the resources to partially cover the debt and had been able to enter into a new payment arrangement with Hydro for the balance of the debt, the appellant does not meet the criteria of being unable to meet the expense because no resources are available

Re: Imminent danger to physical health

The appellant says:

- She had concerns about spoilage of her food due to power disconnection

The Ministry says:

- No information was provided to establish that failure to immediately repay the \$450 borrowed would result in imminent danger to her physical health, nor has information been

provided to establish that failure to pay for utilities would result in imminent danger to her physical health.

The Panel finds:

- While the appellant was concerned about food spoilage in the event of hydro disconnect, no evidence was shown that there was imminent danger to her physical health.

CONCLUSION:

The panel confirms the ministry's reconsideration decision because it was reasonably supported by the evidence and was a reasonable application of the applicable regulation in the appellant's circumstances.