



## PART C – Decision under Appeal

The decision under appeal is the Reconsideration Decision of September 5, 2013 in which the Ministry of Social Development and Social Innovation (the ministry) found that in terms of section 59 of the Employment and Assistance Regulation (EAR), the appellant did not meet the legislative criteria and denied the appellant a crisis supplement for shelter. Under schedule A of the EAR the appellant's rate of income assistance as a single employable recipient does not cover the cost of her monthly rent . It is therefore not unexpected that she would not be able to pay her entire rent each month.

## PART D – Relevant Legislation

Employment and Assistance Act section 4 (EAA)

Employment and Assistance Regulation section 59 (EAR)

## PART E - SUMMARY OF FACTS

The evidence before the minister at reconsideration was:

- The appellant is a single employable recipient of income assistance with no dependents.
- The appellant receives \$235 support and \$375 shelter minus \$20 repayment for a total of \$590 income assistance each month.
- July 12, 2013: The appellant submitted an eviction notice to the Ministry of Social Development and Social Innovation (MSDSI) requesting a crisis supplement for shelter. The ministry created a service request for the consideration of a crisis supplement.
- July 16, 2013: The appellant called MSDSI to advise that she had previously applied for a crisis supplement, but was denied. The appellant stated that she requested a reconsideration for that decision, but the decision was upheld. The appellant said that she had been given another eviction notice and resubmitted it, requesting it be reviewed.
- July 16, 2013: An investigative officer (IO) was reviewing the appellant's file and contacted her landlord to confirm that the appellant was still residing at the address on file. The landlord confirmed that she is still at the residence, and if she paid the outstanding shelter costs, she could stay. The IO contacted the appellant to discuss how she will manage her high shelter costs if she manages to stay at the current accommodation. The appellant stated that she will give her landlord her full income assistance cheque and rely on community resources to get by, until she finds more suitable housing.
- July 19, 2013: The appellant contacted MSDSI regarding her eviction notice for \$900 in arrears that was due June 1, 2013. An Employment and Assistance worker (EAW) contacted the landlord who stated that the eviction stands if the full amount of the arrears is not paid immediately. The landlord stated that the monthly rent is \$650, and although the appellant paid \$250 for July rent, she still owed \$500 from previous months, therefore the EAW was advised that the amount owing at this time was \$900.
- July 25, 2013: An EAW reviewed the appellant's request for a crisis supplement, and noted that the appellant is putting herself in crisis each month as her rent is \$650 per month, but she only receives \$590 from MSDSI each month. The EAW contacted the landlord who confirmed the appellant owes \$900 in arrears, and as of 2013 August 01 she will owe another \$650 for August rent.
- The ministry stated that the appellant has made repeated requests of MSDSI to increase her shelter funds due to issues with custody of her children. The ministry's decision at time of reconsideration dealt only with the denial of a crisis supplement for shelter. The appellant's rent is \$650 per month which exceeds the amount of income assistance for which she is eligible. It is not unexpected that the appellant would not be able to pay her shelter.
- The ministry said they had nothing on file to indicate that the appellant had informed the ministry that the appellant's son was living with her on a 50-50 basis.
- In a verbal statement the appellant told the panel that she was unemployed. She said that she had a young child in permanent custodial care with the Ministry of Children and Family Development and a teenaged minor, still in school, who lived with her on a 50-50 basis that being an informal arrangement she has with her ex-husband. The appellant said that the ministry should have been aware when they assisted her with a \$325 intent-to-rent deposit to secure her present accommodation, that she would likely exceed her \$375 shelter allowance limit when she first signed the rental agreement with her landlord

**PART E - SUMMARY OF FACTS** (continued)

- The appellant claimed that she had informed the ministry on several occasions that her teenaged minor lived with her on a 50-50 basis and that if he had been added to her family unit size at the outset, she would have expected to receive an additional income assistance benefit from the ministry.
- The appellant stated that she has had "shared custody" of the teenaged minor with her ex-husband on an informal basis for many years and did not want to rock the boat to establish a formal custody agreement with him due to his previously violent and unstable nature. The appellant further stated that the ministry had previously accepted her son on her file as a dependant but following an eviction from her B C Housing residence last year, he had been removed from her file. When she entered into her new rental agreement in April 2013 with her present landlord, she believed the ministry would reinstate her son on her file thus increasing her shelter allowance, allowing her to afford the accommodation. She believes this is what has contributed to her current housing crisis. She states that she is in a "catch 22" situation in that she must provide a suitable home in order to gain custody of her children but because she does not have a formal custody agreement with her ex-husband and is in the process of re-gaining custody of her young child, the ministry will not increase her shelter allowance to enable her to provide housing needed to bring the children home.
- She went on to say that she had made an application to the Provincial Court against the Ministry of Children and Family Development to have her young child removed from the Continuous Custody Order (CCO), and returned to her. Should this application succeed she said that she expected to also receive an income assistance top-up for her young child. She stated that a court hearing to determine this matter was to take place October 17, 2013.
- The appellant stated that she believed that she currently had Persons who have Persistent Multiple Barriers (PWPMB) designation and further stated that she was in the process of applying to the ministry for Persons with Disabilities (PWD) designation.
- The panel is of the view that the appellant's oral testimony simply repeats evidence she already provided.

## PART F – REASONS FOR PANEL DECISION

### Issue

The decision under appeal is the reconsideration decision of September 5, 2013 in which the Ministry of Social Development and Social Innovation (the ministry) found that in terms of section 59 of the EAR, the appellant did not meet all the legislative criteria and denied the appellant a crisis supplement for shelter. Under schedule A of the EAR, the appellant's rate of income assistance as a single employable recipient does not cover the cost of her monthly rent. It is therefore not unexpected that she would not be able to pay her entire rent each month.

### Legislation

- Employment and Assistance Act section 4: Income Assistance and Supplements.  
Subject to the regulations, the minister may provide income assistance or a supplement to or for a family unit that is eligible for it.
- Employment and Assistance Regulation section 59 sub (1 a-b): Crisis Supplement.  
The minister may provide a crisis supplement to or for a family unit that is eligible for income assistance or hardship assistance if
  - (a) a 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*.

### Appellant's Argument

The appellant provided the panel and the ministry representative with a copy of a memorandum headed "Arguments for yourself" in which she states:

- You agree with the Ministry that the shelter amount of \$650 is not an unexpected amount since that expense is expected every month.
- However it is unexpected that the Ministry would not add my teenaged minor to my file despite receiving ample evidence on numerous occasions indicating that he lives with me at least 50% of the time.
- When the Ministry is presented with a change of circumstances, they are expected to act within a "reasonable time frame" usually within 5-10 business days.
- This issue has been ongoing since April 2013 and the Ministry has failed to act within a reasonable time frame.
- Therefore the request for a Crisis Supplement for shelter was made because of the unexpected need arising from the Ministry's inaction in this matter.
- The Ministry failed to perform their obligated duties and therefore created this crisis situation.
- I have submitted additional evidence today from my landlord that also confirms that my teenaged minor lives with me at least 50% of the time.
- Today I submit this additional information from my landlord.
- This is more than sufficient to prove the change in circumstances. Therefore, I should receive the crisis shelter amount or a top-up for shelter dating back to April 2013.

## **PART F – REASONS FOR PANEL DECISION** (continued)

### **Ministry's Argument**

The appellant has been found by the ministry to be a single employable income assistance recipient with no dependants. There is no indication in their files that she has been accepted for PWPMB designation. She receives \$235 support and \$375 shelter minus \$20 repayment for a total of \$590 income assistance each month. The ministry clarified with the appellant's landlord that her monthly rent amount is \$650. The appellant also owes the landlord \$900 in arrears rent which she must pay to avoid eviction. It is the ministry's position that by entering into a rental agreement which exceeds the entire amount of her monthly income assistance, the appellant is putting herself in a crisis each month.

Although the appellant states that her rent amount would not be an issue if she was in receipt of a temporary top-up to her shelter allowance for her young child, or if she received the shelter amount for her teenaged minor who she shares 50 per cent custody with his father, she has been found eligible for assistance as a single recipient by the ministry and, as such, she is eligible for income assistance rates under schedule A of the Employment and Assistance Regulation for a single employable recipient. When questioned by the panel, the ministry indicated that they had not accepted the appellant's children as part of the appellant's family unit as there was no formal custody documents which would provide proof that the appellant did indeed have custody of her teenaged minor for at least 40% of the month. The letter provided by the appellant's ex-husband indicating such an arrangement was not considered ample evidence by the ministry, to support the appellant's claim.

The appellant's rate of assistance does not cover the cost of her monthly rent. The ministry stated that it is not unexpected that the appellant's requirement to pay \$650 rent each month, and her failing to pay her full rent each month, would result in her receiving an eviction notice. Therefore under section 59 (1) (a) of the Employment and Assistance Regulation, the ministry finds that the appellant has not met the legislated criteria and is not eligible for the requested crisis supplement for shelter.

### **Panel Decision**

The appellant provided no proof or evidence that she had informed the ministry that her teenaged minor lived with her on a 50-50 basis. The appellant provided no additional evidence to support her claim that her teenaged minor lived with her on a 50/50 shared custody arrangement with her ex-husband. The ministry has no record of being so informed. The appellant has applied to the Provincial Court to have her young child returned to her custody, but provided no evidence of any Court date having been set for the hearing other than a copy of her application to the court and her verbal statement indicating October 17, 2013 as the hearing date. The appellant's argument that the ministry should have been aware when they assisted her with a \$325 intent-to-rent deposit that she would likely exceed her \$375 per month shelter allowance does not remove the responsibility from the appellant for entering into a rental agreement which would exceed her monthly shelter allowance.

**PART F – REASONS FOR PANEL DECISION** (continued)

**Panel Decision** (continued)

The criteria for a crisis supplement as set out in section 59 Sub (1) of the Employment and Assistance Regulation are:

- (a) the family unit or a person in a family unit requires the supplement to meet an unexpected expense or to 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 imminent danger to the physical health of any person in the family unit.

The ministry found the appellant eligible for income assistance as a single employable recipient and as such she is eligible for and receives \$235 support and \$375 shelter minus \$20 repayment for a total of \$590 income assistance each month under schedule A of the Employment and Assistance Regulation for a single employable recipient. As the rate of assistance does not cover the appellant's monthly rent of \$650, it is not unexpected that the appellant would not be in a position to pay her rent each month.

The panel finds that the ministry's determination that the appellant does not meet the legislated criteria under section 59 of the EAR for a crisis supplement for shelter was a reasonable application of the applicable enactment in the circumstances of the appellant and confirms the ministry's decision to deny the appellant a crisis supplement for shelter.