

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (ministry) reconsideration decision dated November 26, 2013 which held that the appellant was not eligible for a crisis supplement for shelter pursuant to Section 4 of the Employment and Assistance Act (EAA) and Section 59 (1) of the Employment and Assistance Regulation (EAR). The ministry determined that the appellant meets the criteria of Section 4 of the EAA but did not meet the criteria for Section 59 (1) of the EAR. In particular, the ministry found that:

- the appellant's shelter costs were not an unexpected expense or an item unexpectedly needed;
- the appellant did not establish that she did not have resources available to her to pay for her shelter costs on her own; and
- failure to provide the crisis supplement for shelter would not result in imminent danger to the appellant or her family's physical health or removal of her children under the Child, Family and Community Services Act (CFCSA).

PART D – Relevant Legislation

Employment and Assistance Act – EAA- Section 4

Employment and Assistance Regulation - EAR- Section 59 (1)

PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration consists of:

- 1) a letter from a local pest control company describing the process of removing bedbugs and the date (September 13, 2013) and time (8 am to 9 am) that it would begin;
- 2) a receipt for \$569 dated September 30, 2013 and in the name of the appellant;
- 3) a copy of a money order for \$596 made payable to the landlord, dated September 26, 2013;
- 4) a 10 day notice to end tenancy for unpaid rent or utilities, dated October 1, 2013 and addressed to the appellant;
- 5) a 10 day notice to end tenancy for unpaid rent or utilities, dated September 1, 2013 and addressed to the appellant;
- 6) a notice of dispute resolution hearing from the housing society dated October 3, 2013, which outlines the tenancy disagreement case against the appellant and the scheduled date of hearing;
- 7) a one page bank statement for the appellant's bank account, for October 2013 showing the cheque history;
- 8) a one page bank statement for the appellant's bank account, for September and October 2013 showing the cheque history;
- 9) a handwritten note from the appellant's physician, signed and dated illegibly which states that the appellant "and her entire family of 4 people cannot be in environment with fumes after fumigation. She needs to be put in hotel for the duration of fumigation process";
- 10) a bill from a local motel in the appellant's name, which she has signed, for \$86.25. The bill states the date in as September 3, 2013 and date out as September 4, 2013;
- 11) a letter from the housing society dated October 24, 2013 stating that the appellant's September rent, which was due September 1, 2013, remains unpaid and her October rent was paid on September 26, 2013;
- 12) a letter from the dispute resolution services of the residential tenancy branch which outlines the parties of the dispute (i.e. the landlord and the appellant), date of the hearing, and the date of the decision;
- 13) a letter from the dispute resolution services of the residential tenancy branch, dated October 24, 2013, which orders the appellant to pay her landlord \$988.12
- 14) a letter from the dispute resolution services of the residential tenancy branch, which outlines the record of settlement regarding the dispute between the appellant and her landlord that includes:
 - the tenancy terminating on January 31, 2014 at 1pm;
 - the landlord is to provide a letter to the appellant stating that the September 2013 rent has not been paid so she can submit it to the ministry for financial assistance; and
 - the rent is due on the first of every month, and the appellant will pay \$50 per month for plumbing cost until the balance of \$419.12 is paid;
- 15) a letter from the dispute resolution services of the residential tenancy branch, dated October 24, 2013, which orders the appellant to vacate her residence on or before 1pm on January 31, 2014;
- 16) Request for Reconsideration signed and dated November 6, 2013;
- 17) in the original decision denying the appellant a crisis supplement for shelter dated October 11, 2013, the ministry noted that the appellant is eligible for \$1123.59 in monthly assistance, (which includes \$700 for shelter that she received for September and October 2013), \$871.08 in Child Tax Benefits (CTB), \$200 in Universal Child Care Benefits (UCCB) and \$311.75 for a GST credit that was issued October 4, 2013. The ministry further notes that the appellant's

rent is \$569 per month, and the ministry pays \$58 per month for her electricity bill and \$106 per month for her gas bill.

In the Notice of Appeal, signed and dated December 4, 2013, the appellant states that:

- the ministry misapplied the residential tenancy branch decision by misinterpreting the facts and conditions of the decision that would allow her to maintain her residence;
- the landlord created an unexpected situation and the ministry did not accurately consider that.

The appellant did not attend the hearing. The panel confirmed that the appellant was notified of the hearing and proceeded in her absence in accordance with section 86(b) of the EAR.

At the hearing the ministry relied on the reconsideration decision and added that:

- the ministry did not find anything was unexpected in the case of the appellant;
- the appellant received shelter costs for September and October 2013;
- the appellant received shelter costs for her stay at a hotel during fumigation;
- the appellant did not provide information or evidence that she used her funds to deal with the bedbug infestation;
- dealing with a bedbug infestation is the landlord's responsibility, not the appellant's or ministry's.

PART F – Reasons for Panel Decision

The issue at appeal is whether the ministry's decision that the appellant failed to establish that her need for a crisis supplement for shelter was an unexpected expense or unexpectedly needed, could not have been met by the resources available to her, and that failure to provide the crisis supplement for shelter will result in imminent danger to her or her family's physical health or removal of her children under the CFCSA as required by Section 59 (1) of the EAR was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

The relevant legislation provides as follows:

EAA:

Assistance and supplements

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

EAR:

Crisis supplement

59 (1) The minister may provide a crisis supplement to or for a family unit that is eligible for income 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 Appellant's Position:

The appellant's position is that the landlord created a situation that was unexpected and the ministry misapplied the residential tenancy branch decision by misinterpreting the facts and conditions of the decision that would allow her to maintain her residence. The appellant argues that due to a bedbug infestation she was unable to pay her September 2013 rent and as a result is facing eviction, leaving her and her two children homeless.

The Ministry's Position:

The ministry's position is that though the bedbug infestation was unexpected, paying one's rent is not unexpected. Further, the appellant has not provided information that supports her claim that as a result of the bedbug infestation she was unable to pay her rent for September 2013 or that she does not have the resources to pay her rent from other resources available to her. Finally, the ministry argues that failing to pay her rent would not result in an imminent threat to the physical health of any person in the family unit or the removal of children as she did not receive an eviction notice from the landlord. The ministry also argues that dealing with a bug infestation, and related costs, is not the ministry's responsibility or that of the appellant; responsibility lies completely with the landlord.

The Panel 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 and is unable to meet the expense or obtain the item because there are no resources available to the family unit, and that failure to meet the expense or obtain an item will result in imminent danger to physical health or the removal of a child under *Child, Family and Community Services Act*.

Unexpected Need or Expense

In respect to whether shelter costs are unexpected or unexpectedly needed, the panel acknowledges that a bedbug infestation is an unexpected occurrence. However, the panel notes that the appellant has not provided any evidence that demonstrates that her shelter costs were used to deal with the bedbug infestation. The panel further notes that the appellant's request was for a crisis supplement for shelter costs. The expense of shelter is not typically unexpected as the need for shelter is an ongoing expense, and the appellant has failed to demonstrate otherwise. In addition, the evidence demonstrates that the ministry provided the appellant with shelter funds for September and October of 2013, therefore the shelter expenses were not unexpectedly needed. The panel finds that the evidence demonstrates that the ministry's decision that shelter costs were not an unexpected expense or unexpectedly needed was reasonable in the case of the appellant and the first criteria of section 59 (1) (a) of the EAR has not been met.

Availability of Other Resources

In regards to the availability of other resources to meet the need of shelter costs, the appellant provided evidence that she had to make alternative living arrangements due to a bug infestation, and stated that as a result she was short of funds to pay her rent. The appellant provided a motel receipt for \$86.25 and no receipts for food costs. The evidence shows that in response to these expenses incurred by the appellant, the ministry provided the appellant with a \$200 crisis supplement for shelter and an additional \$50 crisis supplement for food. The panel finds that the appellant did incur alternative living expenses due to the bedbug infestation that were unexpected but the ministry provided funds that were in excess of the expenses the appellant incurred. The panel finds that with the additional funds provided the evidence does not support the appellant's position that she was short of funds. The ministry also argued that the appellant has a monthly income of \$1974.67. The appellant did not provide evidence to demonstrate that this monthly income of \$1974.67 was insufficient to make up the shortfall she incurred in her shelter funds as a result of dealing with the bedbug infestation. The panel also notes that the appellant did receive her September 2013 shelter costs that cover her rent amount. As a result, the panel finds that the evidence demonstrates that the second criteria of section 59 (1) (a) of the EAR has not been met.

Imminent Threat to Physical Health or Removal of a Child

The ministry argues that there was no imminent threat to the appellant's or her family's physical health or that her children would be removed due to the failure to pay her September rent as she was not served with an eviction notice. The evidence shows that the appellant was served with a notice to end tenancy which would only be in affect if she did not pay her rent or did not file an application for dispute resolution. The evidence also shows that the appellant did file an application, attended dispute resolution and had a decision rendered to her. The dispute resolution required the appellant to pay her rent and other money owing to the landlord or face eviction in January 2014. The evidence demonstrates that there was no imminent threat to the appellant of being evicted at the time of the reconsideration decision. The panel finds that evidence shows that, at the time of the reconsideration decision, the appellant or her family were not facing an imminent threat to their physical safety and that there was no cause for the removal of her children under the *Child, Family and Community Services Act*. As a result the criteria of section 59 (1) (b) have not been met.

Conclusion:

The evidence establishes that the appellant has not met the criteria set out in Section 59 (1) of the EAR. The panel therefore finds that the ministry's decision to deny the appellant's request for a crisis supplement for shelter was a reasonable application of the legislation and was supported by the evidence. The panel confirms the ministry's reconsideration decision.