APPEAL #

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the "ministry") Reconsideration Decision of February 28, 2014 in which the ministry denied the appellant a crisis supplement for shelter under Section 59 of the Employment and Assistance Regulation (EAR) for the month of February 2014 because she did not meet the legislative criteria set out in Section 59 (1) of the EAR, specifically:

- she did not require the supplement to meet an unexpected need;
- she did not satisfy the minister that there were no resources available to meet her immediate shelter needs for the month of February; and
- she did not establish that failure to meet the expense would result in imminent danger to her physical health.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR) Section 59

APPEAL

PART E – Summary of Facts

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

1. Release of Information to original addictions recovery house (RH # 1) dated July 18, 2013 signed by the appellant.
2. RH # 1 "Policy and House Rules" document dated July 18, 2013 signed by the appellant.
3. Provincial Court Probation order dated January 28, 2014 from a court in an area of British Columbia other than the area in which the appellant resides, noting a second addictions recovery house (RH # 2) as the appellant's address.
4. Resident Transfer Form from RH # 1 dated January 29, 2014 informing the ministry that the landlord had changed appellant's tenancy status from *per diem* rate to a monthly room and board arrangement at a monthly rate of $515.00.
5. Letter to the appellant's probation officer dated January 29, 2014 informing her that the appellant had been evicted from RH # 1 for failure to provide 30 day's notice of her intention to vacate and for violence in the form of verbal aggression.
6. Shelter information document from (RH # 2) dated February 3, 2014 confirming the appellant's effective date of tenancy as February 1, 2014.
7. Request for Reconsideration dated February 12, 2014 including the original reasons of the ministry for denying the supplement and the appellant's reasons for the reconsideration request. The original decision notes that:
   i. On July 18, 2013 the appellant entered into treatment at RH # 1 and on the same day signed an agreement to abide by the house's policy and rules.
   ii. On January 28, 2014 the appellant was transitioned from a *per diem* shelter arrangement to room and board.
   iii. On January 29, 2014 the ministry paid directly to RH # 1 prorated room and board for January and $515.00 shelter allowance for February.
   iv. On February 4, 2014 the appellant provided to the ministry a new shelter information form indicating that she had moved into RH # 2 and requesting a crisis supplement for shelter.
   v. On February 4, 2014 RH # 1 sent notice to the ministry that the appellant had been evicted from the premises for violence and failure to provide 30 days' notice to vacate.

In the Request for Reconsideration the appellant argued that she had been told by her probation officer that she did not have to give 30 days' written notice, and that she had been required to live at RH #1 as a condition of her bail order, which would be void after January 28, 2014 because it would be replaced by a probation order. The probation order issued by the court listed the appellant's residence as RH # 2. The appellant stated also that while she was at court on January 28, 2014 in another area of the province the staff at RH # 1 changed her tenancy status from *per diem* to room and board behind her back, and did so in order to collect her February rent cheque before she left the facility, knowing full well that she would be leaving on February 1st. The appellant stated further that while she was at the ministry office on January 29, 2014 the staff at RH # 1 evicted her for made-up reasons, and that the documents she was being asked for related to her probation order, not her bail order, and were therefore of no concern to the staff at RH # 1. She added that without her February shelter allowance she had no way to pay her February rent at her new residence.

In the Reconsideration Decision the ministry reviewed the facts stated above and found that although

the appellant did not believe she was required to give 30 days' notice to vacate if she was a *per diem* resident the terms of Policy and House Rules document signed by the appellant on July 18, 2014 required 30 days' written notice of intention to vacate. The ministry also relied on the appellant's consent to abide by Condition # 19 of the Policy and Health Rules document which prohibited violent behavior by residents. Although the ministry acknowledged that the appellant did not have the resources to meet her shelter costs at RH # 2 it was not satisfied that there were no community resources such as family, friends or shelters to meet her need. Finally the ministry found that the appellant had failed to demonstrate that failure to provide the crisis supplement would result in imminent danger to her health.

In her Notice of Appeal the appellant stated that there were no violent incidents while she resided at RH #1 and that this was all a scam to get her February rent. She provided her probation officer's name and phone number, and appended four letters dated October 10, 2013, January 12, 13 and 14 2014 respectively. Three of the letters were written by staff at RH # 1 and the fourth was written by a former staff member. All letters indicate that the appellant was a model client who abided by all of the house rules, completed all goals to the highest of standards, completed her Grade 12 Dogwood diploma, and became a positive support to the other residents.

At the hearing the appellant told the panel that she had given oral notice of her intention to leave RH # 1 approximately 45 days before she was evicted, and that the assistant house manager at RH # 1 had told her she did not need to give 30 days' notice if she was a *per diem* resident. On January 28, 2014 the appellant arose at a very early hour in order to attend court in another area of the province, and returned late that same day. While she was away the staff at RH # 1 changed her residential status without her knowledge and immediately asked the ministry to issue a February shelter cheque. On January 29th the appellant handed over her court papers to the RH #1 assistant house manager, gave notice of her intention to leave, and proceeded to the local ministry office to inform them of her change of address. While still at the ministry office she received a phone call from her probation officer telling her that she had been evicted from RH # 1. The appellant's February shelter cheque was picked up at a different ministry office by an RH # 1 employee on the same day. The appellant has no idea why she was cited for "violence", and claimed she never even raised her voice to RH # 1 staff.

The panel finds that the appellant's additional written evidence and oral testimony at the hearing is admissible, relevant and in support of the information and record that was before the ministry at the time of reconsideration. The letters from RH #1 staff members support the appellant's assertion that her eviction for violence was unexpected and unwarranted. Her oral evidence clarifies the sequence of events that took place on January 28 and 29, 2014, to which the appellant referred in her request for consideration. The new evidence is therefore admissible as evidence under Section 22 (4) of the Employment and Assistance Act (EAA).

The ministry relied on the Reconsideration Decision, and did not dispute any of the appellant's evidence.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry decision which denied the appellant a crisis supplement for shelter under Section 59 of the Employment and Assistance Regulation (EAR) for the month of February 2014 because she did not meet the legislative criteria set out in Section 59 (1) of the EAR, specifically:

- she did not require the supplement to meet an unexpected need,
- she did not satisfy the minister that there were no resources available to meet her immediate shelter needs for the month of February; and
- she did not establish that failure to meet the expense would result in imminent danger to her physical health.

The applicable legislation is set out in Section 59 of the 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.

The appellant argues that she was told by RH #1 staff that she did not need to give 30 days' written notice of her intention to vacate because she was a *per diem* resident, and that her residential status was changed furtively and behind her back to enable RH # 1 to collect her February shelter money. She argues further that she was a model resident of RH #1 and that at no time did she engage in violent behaviour. She argues further that she gave 45 days oral notice of her intention to leave as soon as she received her probation order from the court on January 28th and was no longer required to live at RH # 1.

The ministry does not dispute the appellant's story, but argues that because the appellant did not give 30 days' written notice of her intention to vacate as she had agreed to do when she signed the Policy and House Rules document on July 18, 2013 her eviction for failure to give notice and subsequent need for February 2014 shelter money were not unexpected. The ministry argues further that it needed some evidence that the appellant had sought other resources to meet her shelter need. Finally the ministry stated that no evidence was tendered by the appellant that failure to meet the expense would result in imminent danger to her.

Panel Decision

The panel finds that there is insufficient evidence to substantiate that there were no resources available to the appellant to meet her shelter expense, and there was no evidence that the appellant

would be in imminent danger to her physical health if she failed to meet the expense.

Regarding the EAR Section 59 (1) (a) requirement that the crisis supplement was an "unexpected expense" the panel finds that while there was evidence before the ministry at the time of reconsideration that the appellant had engaged in violent behavior, the four letters attesting to the appellant's exemplary behavior tendered by the appellant in her Notice of Appeal call into question the credibility of the allegation of violence made by RH # 1.

However, there is no question that on July 18, 2013 the appellant entered into a written agreement whereby she agreed that she would provide 30 days' written notice of her intention to vacate. The appellant did not provide the written notice as required. Therefore her eviction and the need to secure and pay for alternate shelter for February was not unexpected.

Therefore the panel finds the ministry reasonably determined that appellant did not require the crisis supplement to meet an unexpected need, did not establish that there were no resources available to her, and provided no evidence that failure to meet the expense would result in imminent danger to her physical health she failed to meet the criteria for a crisis supplement set out in EAR Section 59. Therefore the ministry's decision to deny a crisis supplement for shelter to the appellant was reasonable.

Accordingly the panel finds that the ministry decision to deny the appellant a crisis supplement for shelter because she did not meet the legislative criteria found in EAR Section 59 was a reasonable application of the applicable legislation in the circumstances of the appellant, and confirms the decision.