

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the "Ministry") December 13, 2013 reconsideration decision in which the Ministry determined that the Appellant was not eligible for a crisis supplement for electrical repairs to his home because he did not meet all of the criteria in section 59 of the Employment and Assistance Regulation. Specifically, the Ministry was not satisfied that the Appellant did not have resources available to him to pay for the repairs and that failure to obtain the funds for the repairs would result in imminent danger to the Appellant's physical health. The Ministry was satisfied that the need for electrical repairs was an unexpected expense.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) Section 4.

Employment and Assistance Regulation (EAR) Section 59 and Schedule A Section 4.

PART E – Summary of Facts

The Ministry did not appear at the hearing. The Panel confirmed that the Ministry was notified of the hearing and then proceeded with the hearing in the Ministry's absence, in accordance with section 86(b) of the EAR.

At the beginning of the hearing, the Appellant gave the Panel his verbal consent to have his mother and an advocate represent him during the hearing.

The Ministry had the following evidence for its reconsideration decision.

1. Information from its records that the Appellant, as a single person with no dependants, receives \$282.92 support assistance and \$375 shelter assistance for a total of \$657.92 a month.
2. Email note dated November 12, 2013 to the Ministry from the Appellant's mother, advising that a safety authority sent a letter to the Appellant and three other tenants in their mobile home park that it was going to cut off their electricity on December 16, 2013 and that it would cost \$1100 to have an electrical contractor do the required repairs. The safety authority advised that it was requiring the tenants to fix electric lines on the poles because the owner of the park was not responding to repair requests. The Appellant's mother requested a crisis supplement for the Appellant for the emergency home repairs to avoid interruption of necessary electrical service to the home the Appellant owns. The Appellant's mother also wrote that the Appellant is unable to afford these repairs from the income assistance he receives and she also is unable to pay for them.
3. Faxed letter dated November 20, 2013 to the Ministry from the Appellant's mother enclosing an invoice dated November 13, 2013 from a contractor indicating that the repair work to the Appellant's home was completed for a cost of \$1,303.65, and also enclosing copies of email messages between her and that contractor, lists of other contractors and their responses that they were unable to do the work or even send someone to do an estimate before the Safety Authority deadline.
4. Letter dated November 27, 2013 from the Appellant's mother to the Ministry describing her unsuccessful efforts to find an electrician to do the electrical work on an urgent basis. She wrote that her son went to another tenant who had the same work done and got the name of an electrical contractor. The Appellant's mother stated that she acted on her son's behalf to get things sorted out because her son was unable to deal with the stress of the situation and financial burden. She also wrote about her efforts to contact the Ministry office and submit the required information for a supplement. The Appellant's mother also submitted photos of the electrical lines, poles, and mobile home park, as well as her notes regarding her efforts to help her son with the electrical services issues between November 11 and November 20, 2013. These included her contacts with a manufactured home association, a member of the legislative assembly (MLA), utilities, other politicians, the Human rights commission and Ombudsman asking for financial help.
5. Copies of the Appellant's utility bills from December 2012 to November 2013, correspondence regarding the Appellant's insurance and bank information.
6. Appellant's request for reconsideration together with:
 - The October 18, 2013 letter from the safety authority advising the Appellant, other tenants and the owner of the mobile home park that a safety order had been issued and the electrical utility would be required to disconnect electricity effective December 16, 2013. The letter recommended alternate arrangements including having a licensed electrical contractor complete the required repairs.
 - Copy of the October 29, 2013 safety order to disconnect electrical supply to the mobile home park because the units are connected to the utility's transmission lines through one or more wooden poles which are seriously deteriorated and at risk of failing. Also, the electrical service

equipment at the units has not been maintained in a safe and proper working condition. The order cited fire and electrocution risks.

- Copy of the provincial property assessment role indicating that the Appellant owns a manufactured home in a manufactured home park.
- Copy of invoice for legal services for mobile home ownership transfer registration.
- Copy of mobile home park rules and regulations signed by the Appellant and the manager.
- Copy of Appellant's tenancy application for the mobile home park, dated August 2012, together with a copy of a receipt for \$287.39 for rent.

For this appeal, the Appellant's mother submitted a written statement, which consisted of written argument on her son's behalf as well as the following information:

- She attested that her son had no resources available to pay or purchase the unexpected emergency electrical service expense; he has no family except a mother and two sisters who do not have the finances to provide to him.
- She listed the contacts she made looking for financial assistance; that is, a news station, an MLA's constituent office who contacted the utility to get the disconnect/reconnect fee of \$250 waived for all the mobile home park tenants, the manufactured home association which recommended legal action against the park owner, the landlord and tenancy assistance office which provided information about how to file a complaint against the park owner and contacts with the Ministry's local office.
- She wrote that no electricity would have meant no heat, no cooking source and no hot water in winter months and the possibility of water pipes freezing would have been the tenants' responsibility. If she had not taken action her son would have been homeless.
- She witnessed her son go into "total panic mode" and a total emotional breakdown when he got the November 2013 disconnect letter from the safety authority. She was extremely concerned for his welfare, as he has ongoing mental health issues including severe depression, suicidal tendencies and chronic pain causing inability to cope with stress.
- She had no choice but to act on her son's behalf for his urgent situation.
- She reviewed the contacts she and her son had with the Ministry, including its request to her son to provide an invoice as soon as possible, their contacts with a contractor, including her emails and when the work was completed.
- The invoice for the electrical repair work remains unpaid.
- Clarification that the Appellant received title to the manufactured home from a relative as a gift transfer of \$1.

The Appellant also submitted a copy of a letter dated December 18, 2013 from legal counsel for the safety authority to the Ministry regarding that counsel's personal involvement with legal issues related to the mobile home park where the Appellant lives. The lawyer advised that the safety authority had been pressing for correction of electrical safety issues at the property for some time and initially pressed the matter exclusively with the owner. The authority did not require the occupants of the mobile home park to address the hazard until it issued a safety order on or about October 28, 2013.

At the hearing, the Appellant stated that the bill for the electrical repair work for his home was still unpaid because he does not have the money to pay for it. He continues to worry that his electricity will be turned off and he will be without heat, without the ability to cook and he'll be homeless. He feels continued imminent danger to his health.

The Appellant said that he did not receive the safety authority letter and order until early November 2013. He immediately contacted his mother because he did not know what to do, how to arrange for repairs or how to pay for them. He was very worried that his electricity would be cut off and he would be without heat, without the ability to cook and without a home. The Appellant also explained that he did not hire the contractor who did the work for his home, nor did he have any contact with the contractor except for being handed the invoice by a worker on the day the work was done. He said that another tenant working with an MLA's office found the contractor who came and completed the repairs for all four tenants. The Appellant confirmed that the receipt in the record for \$287.39 is for one month's rent at the mobile home park and that his rent has gone up as of January 2014.

The Appellant's mother testified that her son contacted her as soon as he got the notice about the electricity cut off. She immediately contacted the Ministry's office to get help for her son because she explained that he was unable to cope with the problem due to serious health problems. He also did not have money to pay for any repairs. The Appellant's mother described all of her efforts to get information from the Ministry about what was needed for a crisis supplement and all of the difficulties she faced trying to contact the Ministry, as well as, the conflicting information and direction she received from the Ministry. She referred to all of the information she submitted to the Ministry and for this appeal, including all of the contractors she contacted to do the work and all of the people and organizations she contacted for financial help. The Appellant's mother also confirmed that she did not and does not have the resources to pay for the repairs. The Appellant's mother stated that it was another tenant and staff from an MLA's office who found the contractor who was able to do the work for all the tenants. All of the contractors she tried were unable to help in time to avoid the electricity being cut off.

Pursuant to section 22(4) of the EAA, the Panel admits the documents submitted on behalf of the Appellant, as well as his and his mother's oral testimony, as being in support of evidence that was before the Ministry at reconsideration.

The Appellant's mother and his advocate submitted oral arguments which are set out in Part F of this decision.

The Ministry did not appear at the hearing, therefore, the Panel will consider the reconsideration decision to be the Ministry's position for this appeal.

The Panel makes the following findings of fact:

1. The Appellant receives \$657.92 in monthly assistance.
2. The Appellant received a notice from a safety authority that his electricity would be shut off on December 16, 2013 unless required repairs were done to the electrical supply to his mobile home.
3. The cost for the repairs completed on about November 13, 2013 is \$1,303.65 and remains unpaid.
4. The Appellant pays about \$290 in rent at the mobile home park.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry reasonably determined that the Appellant was not eligible for a crisis supplement for electrical repairs to his home because he did not meet all of the criteria in section 59 of the EAR, and specifically that the Appellant did not establish that he did not have resources available to him to pay for the repairs and that failure to obtain the funds for the repairs would result in imminent danger to the Appellant's physical health.

The following sections of the EAA apply to this appeal:

Income 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.

The following sections of the EAR apply to this appeal:

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*.

(2) A crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made.

(3) A crisis supplement may not be provided for the purpose of obtaining

(a) a supplement described in Schedule C, or (b) any other health care goods or services.

(4) A crisis supplement provided for food, shelter or clothing is subject to the following limitations:

(a) if for food, the maximum amount that may be provided in a calendar month is \$20 for each person in the family unit,

(b) if for shelter, the maximum amount that may be provided in a calendar month is the smaller of (i) the family unit's actual shelter cost, and (ii) the maximum set out in section 4 of Schedule A or Table 2 of Schedule D, as applicable, for a family unit that matches the family unit, and

(c) if for clothing, the amount that may be provided must not exceed the smaller of

(i) \$100 for each person in the family unit in the 12 calendar month period preceding the date of application for the crisis supplement, and (ii) \$400 for the family unit in the 12 calendar month period preceding the date of application for the crisis supplement.

(5) The cumulative amount of crisis supplements that may be provided to or for a family unit in a year must not exceed the amount calculated under subsection (6).

(6) In the calendar month in which the application or request for the supplement is made, the amount under subsection (5) is calculated by multiplying by 2 the maximum amount of income assistance or hardship assistance that may be provided for the month under Schedule A or Schedule D to a family unit that matches the family unit.

(7) Despite subsection (4) (b) or (5) or both, a crisis supplement may be provided to or for a family unit for the following: (a) fuel for heating; (b) fuel for cooking meals; (c) water; (d) hydro.

*Schedule A**Monthly shelter allowance*

4(2) The monthly shelter allowance for a family unit to which section 15(2) of the act does not apply is the smaller of (a) the family unit's actual shelter costs, and (b) the maximum set out in the following table for the applicable family size:

Item	Family Unit Size	Maximum Monthly Shelter
1	1 person	\$375

The Parties' Positions

The Appellant and his representatives submitted that he has no resources to pay for the electrical repairs to his home. He receives only \$657.92 in monthly assistance. He has to pay rent, utilities and other living costs so he cannot pay the repair invoice of more than \$1000. The Appellant's family confirmed that it also does not have the ability to pay this cost. In addition, his mother provided detailed information about all the people and organizations she contacted for assistance, but with no success. She also provided detailed information about her many attempts to get information from and provide the necessary information to the Ministry. Finally, another tenant and an MLA arranged for the necessary repairs before the safety authority's order took effect.

The Appellant's representatives submitted that, in the Appellant's circumstances, electricity is an essential need. Without power and heat he faces imminent danger to his health. The Appellant further submitted that when he received the safety authority's notice that his electricity would be cut off on December 16, 2013, he panicked. Without the required work being done and paid for, his physical health would be in imminent danger because without electricity he would have no heat, no ability to cook and in fact no home. The cut off would occur in winter. The Appellant stated that he continues to feel that his physical health is in imminent danger because the repair bill remains unpaid. He fears that his electricity will still be cut off, and he will end up with no heat, no ability to cook and no home.

The Ministry submitted that because the required repairs were completed, it was not satisfied that the Appellant did not find the resources to purchase or pay for the repairs on his own. The Appellant did not provide any information about how he was able to have the repairs completed. Also, because the electricity repairs were completed, the Ministry was not satisfied that failure to provide the Appellant with the funds to pay for the repairs would result in imminent danger to his physical safety. Therefore, the Ministry determined that the Appellant did not meet the legislated criteria for a crisis supplement for home repair.

The Panel's Findings and Conclusion

With respect to the issue of the Appellant's ability to pay for the electrical repairs to avoid the cut off, the Panel finds that there is a good deal of evidence from the Appellant and from his mother that he does not have any resources to pay for an unexpected expense of over \$1300. The Appellant receives just over \$600 in assistance and from this he must pay for rent of over \$250, utilities and other basic living costs. The Appellant also stated that the contractor's bill remains unpaid. The Appellant's mother provided evidence that she and her daughters did not have financial resources to help her son. In addition, she provided a list of all the people and groups she contacted to try to get financial and other help, but without success. Therefore, the Panel finds that the Appellant is not and

would not be able to pay the contractor's bill from his own resources or other resources.

Additionally, the Appellant and his mother testified about how another tenant and an MLA got the work done without his prior knowledge. The Appellant said that only when he saw the work being done and was handed the invoice did he know that a contractor had been hired. The Panel finds that just because a contractor completed an emergency repair for the Appellant, does not mean that he had the resources to pay for that work. Based on all of this evidence, the Panel finds that it was unreasonable for the Ministry to determine that the Appellant did not provide information or did not find the resources to purchase or pay for the repairs on his own, or that he did not provide any information about how he was able to have the repairs completed. Therefore, the Panel further finds that it was unreasonable for the Ministry to determine that the Appellant did not meet the requirements for a crisis supplement in section 59 (1)(a) of the EAR.

Regarding the requirement in section 59(b)(i), the Panel finds that the evidence demonstrates that when the Appellant first requested a crisis supplement from the Ministry, he faced the imminent disconnection of his electrical supply in winter with no resources to pay for necessary repairs or even the ability to find a contractor to do the work. Electrical cut off would have meant no heat, no ability to cook, and difficult living circumstances in winter. The Panel finds that the lack of this essential service in winter would cause imminent danger to the Appellant's physical health. Therefore, the Panel finds that the Ministry unreasonably determined that the Appellant did not meet the requirements in section 59(1)(b)(i) because at the time the Appellant requested a crisis supplement the Appellant did face imminent danger to his physical health if the necessary repairs were not made to his electrical supply by the deadline imposed by the safety authority.

In addition, the evidence demonstrates that the Appellant did not arrange for the repairs, but rather another tenant and an MLA worked to assure that all of the mobile home tenants would not face the consequences of the safety authority's order. Additionally, the Appellant's repair bill remains unpaid. Therefore, based on the evidence, the Panel finds that the Ministry unreasonably determined that just because the electricity repairs were completed, the failure to provide the Appellant with the funds to pay for the necessary repairs would not result in imminent danger to his physical safety and that the Appellant did not meet the requirements in section 59(1)(b)(i).

In conclusion, having considered all of the evidence and the applicable enactments, the Panel finds that the Ministry's reconsideration decision was not reasonably supported by the evidence. Therefore, the Panel overturns that decision in favor of the Appellant.