

## PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (the ministry) dated 02 January 2014 that denied the appellant's request for a crisis supplement for furniture. The ministry determined that her request did not meet the criterion set out in section 57 of the Employment and Assistance for Persons with Disabilities Regulation that the supplement was needed to meet an unexpected expense or obtain an item unexpectedly needed.

The ministry was satisfied that the appellant met the other criteria set out in the Regulation:

- She does not have the financial resources to purchase furniture, and
- Failure to provide a bed may result in imminent danger to health.

## PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), Section 57

## PART E – Summary of Facts

At the request of the appellant's advocate, and with the consent of the ministry and the appellant, a student doing her practicum with the advocate's organization attended the hearing as an observer.

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

- From the ministry's files: the appellant is a sole recipient of disability assistance.
- In a Note to Workers dated 17 December 2013 the appellant writes:
 

"I would like to request a reconsideration for the denial of a crisis for furniture. I recently went to alcohol + drug treatment for 2 ½ months and upon returning I had to move back into the same place I lived before treatment. The house I was living in was very unsafe for me physically and for my recovery. I was forced to leave that situation and have since gotten a new safe place to live. I have no furniture, not even a bed sleep on. I haven't asked for any sort of crisis supplement for many years. I am sleeping on a blanket on the floor."
- The appellant's request for reconsideration dated 18 December 2013. The appellant writes:
 

"I recently went to treatment for addiction issues and got back on Nov. 26/13. Prior to returning home I tried very hard to get into second stage housing with no luck. The house I was living in prior to going to treatment was very unsafe for me physically and harmful to my recovery due to the fact that by abusive ex-boyfriend still resides in the house and everyone there uses drugs. So to keep myself safe and clean from drugs I had no choice but to move. I've since moved but have NO furniture at all. The unexpected need is that I was in the furnished place but now have no furniture because it didn't belong to me. I have gone to several community support places with no luck. I have already asked friends and family for help getting my new place. It is hard to live in the place without furniture or a bed I am asking for reconsideration due to my circumstances. I have been sleeping on the hardwood floor on a blanket and it's hurting my back really bad. I don't ask for crisis grant often and believe your decision is a little unreasonable seeing as not many (if any) apartments come furnished that are affordable for someone like myself on assistance."
- The reconsideration decision states that a review of the appellant's file indicates that she provided an estimate for a bed, couch and table and 4 chairs: new bed – \$389 + tax, used bed – \$250, used couch – \$50, used table and 4 chairs – \$50.

The appellant filed her Notice of Appeal on 13 January 2014. She writes that she disagrees with the reconsideration decision "because it is unreasonable."

At the hearing, the appellant's advocate presented a written submission. The submission provided the following new information:

- A letter from the appellant's physician dated 08 January 2014. The letter states that the appellant "had to move to a place of her own for urgent safety reasons. As a result, she no longer has her own bed, and has ended up having to sleep on the floor. This is causing a lot of problems with back pain as well as other generalized musculoskeletal pain."
- An analysis of rental costs in the appellant's home city, with the graph of average rent by unit type based on Canada Mortgage and Housing Corporation rental market statistics, noting the

average rent of \$695 for bachelor apartments in the city was amongst the most expensive in Canada.

- The results of searches conducted by the advocate's staff on 24 January 2014 of 2 websites posting rental vacancies in the appellant's home city. One website offered zero available vacancies for under \$600/month and a phone call revealed that they do not offer any furnished rentals. The second search showed that the only available rentals for under \$600/month are unsuitable for the appellant given her challenges with addiction and subsequent medical limitations.

The balance of the advocate's submission went to argument (see Part F, Reasons for Panel Decision below).

In answer to questions, the appellant provided the following testimony:

- While she was in treatment she had arranged what she understood to be a firm placement at a second stage recovery house in her home city, where she would have 30 to 90 days to work on her future. The day before leaving the treatment centre, she was advised that this had "fallen through," as the person whose place she would be taking at the recovery house would not be leaving as planned.
- With nowhere else to go, upon leaving the treatment centre she moved back into her former residence, despite the abusive relationship and drug using that she needed to avoid. However, though paying rent there, she stayed away from this place as much as possible, sometimes "couch surfing" with friends elsewhere. She was there for about 3 weeks, until with the help of family and friends she was able to rent the unfurnished apartment in which she now resides.

The ministry representative stated that she was not surprised that the appellant was unable to find a furnished apartment. The ministry explained the reasons for the reconsideration decision and confirmed that the reconsideration decision was based on whether the need for furniture was unexpected. (See also Part F, Reasons for Panel Decision below).

The ministry did not object to the admissibility of the new information provided in the advocate's submission or by the appellant in her oral testimony. The panel finds that the information provided in the advocate's submission and by the appellant in her oral testimony are in support of the evidence before the ministry at reconsideration, elaborating upon information provided in her Request for Reconsideration regarding the cost and availability of furnished rental accommodation and clarifying the circumstances surrounding her lack of success in moving into second-stage housing. The panel therefore admits the new information set out in the advocate's submission and the appellant's oral testimony as evidence under section 22(4) of the *Employment and Assistance Act*.

## PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry decision to deny the appellant's request for a crisis supplement for furniture under section 57 of the EAPWDR was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant. In particular, the issue is whether the ministry reasonably determined that the information provided did not establish that the appellant requires a crisis supplement to meet an unexpected expense or obtain an item unexpectedly needed.

The ministry was satisfied that the appellant met the other criteria set out in the Regulation:

- She does not have the financial resources to purchase furniture, and
- Failure to provide a bed may result in imminent danger to health.

The relevant legislation is from section 57 of the EAPWDR:

### Crisis supplement

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*.

(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.

The position of the ministry, as set out in the reconsideration decision, is that "In the opinion of the ministry [the appellant's] need for furniture is not unexpected. [She] chose to move from an unfurnished unit to a furnished unit (sic) after being released from the treatment program. The ministry is not satisfied that there were no furnished units available to [her]." At the hearing the ministry representative explained that for most things requested through a crisis supplement, such as food, clothing and shelter, the need is ongoing and therefore, except in cases of loss or damage, it is difficult to determine when that need becomes "unexpected." She stated that when the ministry made its reconsideration decision, the only information it had available was that the appellant had been "working hard" to get into second stage housing, and that, as understood by the ministry, one of the purposes of treatment was to work on planning life after treatment, including finding appropriate accommodation. No information had been provided as to whether the appellant had looked for other arrangements such as room and board or shared accommodation. The ministry representative acknowledged that with the new information about how the second stage recovery house placement had fallen through at the last minute, she would have hoped that a ministry worker might have made a different decision. The ministry acknowledged that the appellant staying in her former residence for any length of time was not an option.

The written submission presented by the appellant's advocate argued that the appellant was hopeful that she would be able to transition to furnished second stage housing following treatment. Unfortunately there were no spaces available in second stage housing and she was forced to search for market housing. She did not expect to be the victim of abuse and nor did she expect to be released from treatment to market housing, leaving her without adequate furniture. As a result she faces an unexpected need for furniture. The cost of furnished apartments traditionally exceeds that of unfurnished apartments. In addition furnished apartments are more difficult to obtain for persons living in poverty and struggling with addictions because of more stringent reference checks conducted by the landlords concerned over the protection of private property within furnished suites. At the hearing, the advocate also submitted that given the appellant's \$375/month shelter allowance, and the high cost of rental accommodation in her home city, and even higher cost for furnished suites, she would have to draw upon her income support to pay her rent, leaving little left over for other living expenses, and not enough to also buy furniture.

In the submission, the advocate also argued that in section 57 of the EAPWDR, and in particular the term "unexpected," should be interpreted in a large and liberal manner consistent with section 8 of the *Interpretation Act*. The advocate also cited *Abrahams* (SCC) and *Hudson* (BCSC) regarding resolving any ambiguities in the interpretation of the legislation in favor of the appellant. At the hearing, the advocate submitted that a large and liberal interpretation of the term "unexpected" should reflect the new information that the appellant's placement at a second-stage recovery house had fallen through at the last minute.

#### *Panel findings*

The panel notes that the need for furniture is not usually considered "unexpected." What might make this need "unexpected" are the circumstances under which the need arises. If the need, arising from a change in living situation – in this case leaving a furnished place to enter a care facility where everything is provided and then back to the "real world" where a person is expected to adjust to a new life – were done with sufficient advance notice and assistance, then the need for furniture or suitably furnished accommodation could not reasonably be considered "unexpected." Taking into account the broader context of section 57, including the title "Crisis supplement," the panel considers the determination of "unexpected" to require consideration of how sudden the need appears and how immediately it must be addressed. Put another way, one must consider how short the time period is for planning, evaluating alternative ways to meet the need and making the necessary arrangements. In the present appeal, the new information provided by the appellant was that her placement in a second-stage recovery house had "fallen through" suddenly, the day before she left treatment, leaving her little time for making other arrangements and giving rise to her immediate and unexpected need for furniture or suitably furnished accommodation elsewhere.

While the ministry did not have the benefit of the new information concerning the second-stage recovery house placement suddenly falling through, and given the evidence concerning the lack of available, suitable and affordable furnished apartments in the appellant's home city and that staying any length of time at her former residence was not a safe or healthy option, the panel finds that the ministry was not reasonable in determining that the appellant's need for furniture did not meet the "unexpected expense" criterion set out in section 57(1)(a) of the EAPWDR.

Accordingly, and as the ministry was satisfied that the appellant met the "no resources" and

"imminent danger to physical health" criteria, the panel finds that the ministry's decision to deny the appellant a crisis supplement for furniture was not reasonably supported by the evidence. The panel therefore rescinds the ministry's decision in favour of the appellant.