PART C – Decision under Appeal

The Decision under Appeal is the Ministry of Social Development and Social Innovation, (ministry) Reconsideration Decision, dated Jan. 30, 2014, which denied the appellant a crisis supplement for shelter. The ministry determined that the Appellant was not eligible for a crisis supplement under sec. 57 of the Employment and Assistance for Persons with Disabilities Regulation, as the ministry determined the appellant had not demonstrated there were no other resources available to the appellant to pay for her shelter and there was no evidence of imminent or immediate danger to the appellant's physical health if she did not get the supplement.

PART D – Relevant Legislation

EAPWDA Employment and Assistance for Persons with Disabilities Act – Sec. 5

EAPWDR Employment and Assistance for Persons with Disabilities Regulation – Sec. 57

PART E – Summary of Facts

The evidence before the ministry at reconsideration was as follows:

1- A three page document showing the appellant's banking activity for the relevant time frame.

2- A two page document, 10 day Notice to End Tenancy for Unpaid Rent or Utilities, dated Jan. 2, 2014, addressed to the appellant to pay rent in the amount of $610 for Jan 1, 2014.

3- A fax, handwritten, dated Jan. 7, 2014, requesting a Crisis Grant and explaining how the appellant lost her rent money.

4- The original ministry denial of the application dated Jan. 10, 2014.

5- An "Employment and Assistance Request for Reconsideration," including the original reasons of the ministry for denial of the supplement, three page typewritten response of the appellant and two pages of bank documents showing appellant's payment of a loan.

The reconsideration decision reviewed and summarized the facts from the documents above. The decision states that to qualify for a crisis supplement the appellant must meet all three criteria in Sec. 57(1). First, the supplement must be for an unexpected expense or an item unexpectedly needed, secondly, there are no other resources available to the appellant, and thirdly, failing to provide the supplement would result in imminent danger to the physical health of the appellant.

In relation to the unexpected expense criterion, the ministry, contrary to the original decision, found that the appellant had demonstrated that her need for the Jan. 2014 rent was unexpected. As such, she had satisfied one of the criteria under sec. 57(1)(a) of the Regulation.

In relation to resources available to the appellant, the ministry found that the information provided did not demonstrate the appellant had no other resources to obtain additional money to pay the rent. The decision noted the appellant's evidence that; she could not get another loan for rent from a particular community agency, as she was already paying one rent loan back; another community resource did not have an available rent funds; and, the appellant's bank account was in the negative. However, the decision also noted that her eviction notice was for Jan. 12 and that a reconsideration officer confirmed with her property manager on Jan. 29 that she was still in her home and that the Jan. rent had been paid. As such, the ministry determined that the appellant had found and accessed available resources to meet the need under sec. 57(1)(a).

In relation to imminent danger to the appellant's health, the ministry found that the appellant had not demonstrated this. The ministry found that under sec. 57(4)(b) the maximum crisis supplement payable was $375 and this would not meet the $610 needed for the rent. The ministry determined that the "... amount owing could have been the causing factor for eviction which could have resulted in imminent danger to your physical health, not the failure to provide the crisis supplement." Further, the ministry determined that as the appellant remained in her home and the Jan. rent was paid, there was no danger to her health. As she did not satisfy the criteria in sec. 57(1)(b)(i), the ministry denied the reconsideration application.

The appellant appealed to the Tribunal. Her Notice of Appeal stated, among other things, that she had not found other resources to pay the rent. She attached documents showing a Feb. eviction notice for non-payment of Feb. rent, a letter from the manager of her apartment confirming the monies she paid for Feb.'s rent was applied to Jan.'s arrears, and she was now $650 short (sic?) for Feb. rent. She indicated this would leave her homeless and in imminent danger.

In relation to the amount payable for a crisis grant and the amount owed for rent being too high, the appellant advised that it was up to the property management to determine whether she would be evicted. She had been at the same address for seven years and it was shown through the Feb. eviction notice that it is the non-payment of rent that caused the notice of eviction.

In relation to imminent danger the appellant pointed out that she had been on disability since 1993. Over the last 20 years her conditions have deteriorated and she now had further medical conditions, which she outlined. She pointed out she will be in imminent danger from the elements and from physical attacks if she is forced to live on the street.

At the hearing the appellant gave evidence that the landlord applied her Feb. rent payment to the arrears from Jan. She paid $650 from the monies received from the ministry at the end of Jan. (As such the panel believes the landlord should be only $610 in total arrears.) Further, she would be able to work with landlord if she received a crisis grant from the ministry, as she would then only be $235 in arrears. She confirmed that if she is put out on the street her health will be in imminent danger. She questioned the logic in refusing the crisis supplement because if she is required to move it will cost the ministry more money as she will require a rent deposit and security deposit. The appellant confirmed she was relying on those submissions previously sent with her notice of appeal.
Upon being questioned by the panel the appellant stated she expects March will result in another eviction notice as she will still be a month behind. (Feb rent will get paid when she receives her March cheque at the end of Feb.)

At the hearing the ministry argued the Appellant was not eligible for a crisis supplement under sec. 57. The ministry stood by the reasons from the Reconsideration Decision. It was pointed out that the ministry only renders decisions for the month in which the request was granted. As Jan. rent was now paid, this was no longer an issue and the appellant could apply again for a supplement for Feb. or March. A new application could and had to be made. The ministry is bound to follow this legislation. Other resources were available as the Jan. rent had been paid. There was no imminent danger as she was not evicted and is still living in the same place.

The panel determined that the documents attached to the Notice of Appeal, and the appellant's evidence relating to the eviction notice and the letter from the manager, were admissible in the hearing. Section 22(4)(b) of the *Employment and Assistance Act* states that the panel may admit as evidence oral or written testimony in support of the information and records that were before the minister when the decision being appealed was made. These documents and evidence are in support of the appellant's claim and are in direct response to the new evidence relied on by the reconsideration officer's phone call with the property manager on Jan. 29.

PART F – Reasons for Panel Decision

The issue to be determined is whether the ministry reasonably determined the Appellant was not eligible for the crisis supplement for shelter.

Employment and Assistance for Persons with Disabilities Act

Disability assistance and supplements

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

Employment and Assistance for Persons with Disabilities Regulation

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.

(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;

(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 disability 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.

The issue is whether the ministry reasonably determined the Appellant was not entitled to the crisis supplement as per sec. 57(1). The section states the minister may provide a crisis supplement to an eligible person if the person requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed, is unable to meet the expense or obtain the item because there are no resources available to the family unit, and, the minister considers that failure to meet the expense or obtain the item will result in imminent danger to the physical health of the person. Under sec. 57(2), a crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made.

The ministry argues the Appellant has not shown there is imminent danger or that other resources were not available. (At the hearing the ministry also argued that this was not unexpected although when pointed out they also agreed the reconsideration decision found it was unexpected.) Further, this is a new issue requiring a fresh application as January's rent has been paid. The appellant argues she still owes the landlord at least $610 and that until she pays the rent, or at least $375, she will be evicted.

The panel finds the Appellant is eligible to request the supplement. Further, the reconsideration decision determined that this was an unexpected matter. The question is whether the ministry reasonably determined there were no other resources available and whether there was imminent danger to her health if the supplement was not granted.

In relation to the issue of no resources available to the appellant to pay for the expense, the panel cannot say that the ministry was unreasonable in its determination. A resource was available, and it happened to be the assistance the appellant received at the end of Jan. The panel finds it would not be unreasonable for a person to expect that any monies paid to the landlord would be applied first to arrears. Once that was paid, the Jan. rent was no longer an issue. The issue then became a shortage of Feb. rent. Pursuant to sec. 57(2) this was a new calendar month for which a new application had to be made.

In relation to the issue of imminent danger the ministry found there was no evidence to support that the appellant was being evicted and as such there was no imminent danger to her physical health. For the calendar month of Jan., under sec. 57(2), this was correct. The rent had been paid and she had not been evicted from her home in Jan. It is clear based on the appellant's health that if she is evicted and put on the street she will be in imminent danger. The ministry did not argue otherwise and did not challenge the appellant's evidence on this issue. However, as the appellant has not been evicted the ministry's conclusion is a reasonable one.

In relation to the ministry's reasoning that the "... amount owing could have been the causing factor for eviction which could have resulted in imminent danger to your physical health, not the failure to provide the crisis supplement," the panel is unsure as to what this actually means. It would appear that they are saying as only $375 could have been granted; it would not make a difference as the arrears are $610. The panel finds that this is not reasonable. It is based on speculation by the ministry. The appellant provided unchallenged evidence at the hearing in response to this, that she could likely work something out with the landlord, even if only $375 was granted. The panel finds the ministry's analysis on this point was unreasonable.

However, as the panel determined above that the imminent danger issue for Jan. had been eliminated, the reconsideration decision on this issue is reasonable.

The legislation sets out that all three criteria must be met. As the panel has found that the reconsideration decision reasonably determined that the appellant had not established the necessary criteria for the month of Jan., the panel finds that the ministry decision was reasonable based on all of the evidence and the legislation and confirms the decision.