

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the Ministry) reconsideration decision dated March 4, 2014 which denied the appellant's request for a crisis supplement to cover the cost of a bed. The Ministry held that all of the requirements of Section 57 of the *Employment and Assistance for Persons With Disabilities Regulation* (EAPWDR) were not met as the Ministry found that:

- the cost of a bed was not an unexpected expense or an item unexpectedly needed; and,
- there was insufficient evidence to show that failure to obtain a bed will result in imminent danger to the appellant's physical health.

PART D – Relevant Legislation

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

PART E – Summary of Facts

With the consent of both parties, the hearing was conducted as a written hearing, pursuant to section 22(3)(b) of the *Employment and Assistance Act*.

The evidence before the Ministry at the time of the reconsideration decision consisted of the Request for Reconsideration- Reasons dated February 19, 2014.

Prior to the hearing, the appellant provided an email dated March 31, 2014 from her room-mate and representative. The room-mate wrote that:

- The appellant informed her that she has never received help to get a bed by the Ministry, so some of the facts are wrong.
- The appellant has epilepsy and a proper night's sleep is very important to her well-being. There is a real concern because they live many kilometers from the nearest hospital and if the appellant has a seizure, it could kill her.
- The appellant also suffers from an acquired brain injury and has some deficits to dealing with government agencies and all these forms.
- The appellant's "ex" locked her out of where her stuff was stored and he refuses to give her any of her possessions.
- The appellant has been "degraded enough" and it is only \$200.00 [for the bed].

In her Notice of Appeal dated March 14, 2014, the appellant wrote that:

- She has epilepsy and the one thing that will give her grand mal seizures is lack of sleep.
- She is many kilometers from a hospital and if she has repeated seizures along the way, she could die. This will happen if she has to sleep on the couch.

In her Request for Reconsideration, the appellant wrote that:

- When she left her spouse 1 ½ years ago, she left with the clothes on her back. She has been fighting since then to retrieve her belongings. He has everything and she has nothing.
- She has asked the authorities for help and was only able to get the bare necessities and in order to get anything else she will have to go to civil court. By then, there will be nothing left.
- Brain injuries make this very difficult.

The Ministry relied on its reconsideration decision. The Ministry's evidence is that:

- The appellant is a single recipient of disability assistance.
- On January 25, 2014 the appellant requested a crisis supplement for a bed when she moved from her parents' home since she was unable to take the bed and her former spouse had her bed.
- On February 4, 2014 the appellant advised that she now had a bed given to her but she had not yet paid for it and provided a receipt as proof of the cost of the bed.
- The appellant moved from her parents' home in December 2013.

The Ministry did not raise an objection to the admissibility of the information in the appellant's Notice of Appeal or in her room-mate's email. The panel admitted the information as it provided more detail relating to the appellant's need for a bed and is in support of information before the Ministry on reconsideration, pursuant to Section 22(4) of the *Employment and Assistance Act*.

PART F – Reasons for Panel Decision

The issue on the appeal is whether the Ministry's decision which denied the appellant's request for a crisis supplement to cover the cost of a bed, on the grounds that the requirements of Section 57 of the *Employment and Assistance for Persons With Disabilities Regulation* (EAPWDR) were not met, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the appellant's circumstances.

Section 57(1) of the EAPWDR sets out the eligibility requirements which are at issue on this appeal for providing the crisis supplement, as follows:

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*.

Unexpected Expense or Item Unexpectedly Needed

The Ministry's position is that the provisions of Section 57 of the EAPWDR allow for the Ministry to provide a crisis supplement when all of the legislative criteria are met, specifically in this appeal that the supplement is required to obtain an item unexpectedly needed of for an unexpected expense, and failure to obtain the item will result in imminent danger to the appellant's physical health. The Ministry argued that since the appellant was aware in December 2013 that she was going to need a bed as a result of moving out of her parents' home, her need for a bed cannot be seen as an unexpected expense.

The appellant's position is that the cost of a bed is an item unexpectedly needed, as when she left her spouse, she left with the clothes on her back and she has been fighting since then to retrieve her belongings. The appellant argued that she has asked the authorities for help and was only able to get the bare necessities and, in order to get anything else she will have to go to civil court. The appellant argued that also suffers from an acquired brain injury and has some deficits to dealing with government agencies and all these forms.

Panel decision

Section 57(1)(a) of the EAPWDR sets out that a crisis supplement may be provided if the supplement is required to meet an unexpected expense or obtain an item unexpectedly needed. The panel finds that although the circumstances between the appellant and her ex-spouse that resulted in her leaving with just "the clothes on her back" may have been unexpected by the appellant, this occurred 1 ½ years ago and the appellant did not dispute that she has since resided at her parents' home. The appellant stressed the importance for her health condition of having a bed so she can get a good night's sleep and she has had over a year, while at her parents' home, to explore community resources for obtaining a bed or to budget for the cost a bed. The panel finds that the Ministry reasonably determined that it was not unexpected that the appellant would need a bed if and when

she moved out of her parents' home. Therefore, the panel finds that the Ministry reasonably concluded that the cost of a bed is not an item unexpectedly needed and is not an unexpected expense, under Section 57(1)(a) of the EAPWDR.

Imminent Danger

The Ministry's position is that the appellant stated that she has a couch to sleep on and, even though this may not be ideal, the appellant has been without a bed since December 2013 and there is no indication that failure to meet the expense will result in imminent danger to her health.

The appellant's position is that she has epilepsy and the one thing that will give her grand mal seizures is lack of sleep and this will happen if she has to sleep on the couch. The appellant argued that she lives many kilometers from a hospital and if she has repeated seizures along the way, she could die.

Panel Decision

The panel finds that it is not disputed that the appellant has epilepsy and the appellant wrote that she will not sleep well on the couch and that this will cause her to have grand mal seizures, which could be life-threatening due to the distance that she resides from the nearest hospital. The panel finds that it is also not disputed that the appellant advised the Ministry on February 4, 2014 that she now has a bed that was given to her but she had not yet paid for it. While the appellant is currently sleeping on a bed, she provided the Ministry with a receipt as proof of the cost of the bed, and the Ministry accepted that it has not yet been paid for and it has not been established that she will keep the bed without funds to pay for it. Given that the appellant moved out of her parents' home in December 2013 and has slept on the couch until sometime in February 2014, or for approximately 2 months, with no evidence provided of seizures experienced by the appellant during that time, the panel finds that the Ministry's conclusion that there is not sufficient information to establish that failure to obtain this item will result in imminent danger to the appellant's physical health, pursuant to Section 57(1)(b) of the EAPWDR, was reasonable.

Conclusion

The panel finds that the Ministry's reconsideration decision, which denied the appellant's request for a crisis supplement for the cost of a bed because the requirements of Section 57 of the EAPWDR were not met, was reasonably supported by the evidence and the panel confirms the Ministry's decision.