

## PART C – Decision under Appeal

The appellant appeals the reconsideration decision of the Ministry of Social Development and Social Innovation (“the ministry”) dated March 21, 2014, in which the ministry denied his request for a crisis supplement for tires for the trailer in which he resides, on the basis that the appellant did not meet all of the required criteria set out in section 57(1) of the *Employment and Assistance for Persons with Disabilities Regulation (EAPWDR)*. Specifically, the ministry determined that:

1. The crisis supplement was not required to meet an unexpected expense or obtain an item unexpectedly needed as provided by section 57(1)(a) of the *EAPWDR*;
2. The appellant had not demonstrated that he was unable to meet the expense or obtain the item because there are no resources available to him as provided by section 57(1)(a) of the *EAPWDR*; and
3. The appellant had not established that failure to meet the requested expense or obtain the item would result in imminent danger to the appellant’s physical health or removal of a child under the *Child, Family and Community Service Act* as required by subs. 57(1)(b)(i) of the *EAPWDR*.

## PART D – Relevant Legislation

*Employment and Assistance for Persons with Disabilities Regulation (EAPWDR)* section 57(1).

## PART E – Summary of Facts

The information before the ministry at reconsideration included the appellant's Request for Reconsideration dated March 9, 2014 as well as a copy of a letter dated October 29, 2012 prepared by the ministry and addressed to the appellant. This letter was in relation to a prior request by the appellant for a crisis supplement in relation to repairs to the roof of his trailer.

On March 3, 2014, the appellant's sister requested a crisis supplement from the ministry on the appellant's behalf for new tires to be placed on the appellant's trailer because the existing tires were flat and as a result the trailer was not level. The appellant's sister advised the ministry that the appellant's trailer had been on blocks for quite some time but the blocks were not level and new tires would make the trailer level. A discussion occurred between the appellant's sister and the ministry worker regarding whether the existing tires could be inflated with air or spacers placed on the blocks to level the trailer but the appellant's sister did not know whether these were possible solutions.

In the appellant's Request for Reconsideration he wrote that he wished to appeal everything "on the first page" referring to page 1 of the Reconsideration Decision.

At the hearing, the appellant stated that he had owned his trailer for 16 years, that the tires in question are "finished" and that he needs to have them replaced in order that he can properly live in the trailer as the windows are broken and he cannot keep his door closed because he cannot make it level. He noted that he could not put air in the existing tires as the wheels are resting on their rims and that he did not have the money to pay for this himself.

In response to questions, the appellant stated that his intention is to replace the tires on his trailer and then to relocate. He stated that the ministry was holding money in trust for him for this purpose. The appellant confirmed that he lived alone and that since his mortgage had been paid off by the ministry, the money it had previously been deducting from his monthly disability payment for that purpose should be used to pay for the tires he was seeking.

The appellant called his sister as a witness. She stated that the appellant had been diagnosed with a terminal illness and was dying. She stated that she wanted the appellant to move in with her but that he wouldn't move until his trailer had new tires and could be secured. She stated that health care workers would not access his trailer because it was unsafe to do so.

In response to a question, the appellant's sister stated that the ministry knew of the appellant's terminal illness at the time of his initial application for the crisis supplement that is the subject of this appeal.

At the hearing, the ministry referred to the reconsideration decision and confirmed its knowledge of the appellant's terminal illness. The ministry stated that it was trying to support the appellant by offering to move him to a new residence where he would be safer and more comfortable as the trailer is beyond repair. The ministry clarified that once a chattel mortgage on the appellant's trailer had been paid off in 2013, it no longer provided shelter payments to the appellant and did not hold that in trust for him. The ministry continued that paying a crisis supplement for tires to move a trailer that is in such disrepair is not safe and that it advised the appellant in the October 29, 2012 letter that it would not pay for future repairs. The ministry stated that as the trailer is so old and beyond repair, it's no longer unexpected that it will require repairs.

In response to a question, the ministry confirmed that the appellant's terminal illness was considered when the reconsideration decision was made.

The ministry called the Employment Assistance Worker ("EAW") who handles the appellant's ministry file as a witness. The EAW confirmed that the appellant had been notified by the October 29, 2012 letter that the ministry would not pay for further repairs to his trailer as due to its age there could be no more unexpected repairs required. The EAW stated that he was told that the trailer was on blocks and that the tires were 35 years old. The EAW stated that tires are not supposed to last that long and that replacement of tires is not unexpected.

In response to a question, the EAW clarified that the appellant had not exhausted all resources to meet the expense because options had been discussed such as using a jack or different blocks to level the trailer and no answers had been provided by the appellant as to whether those possible solutions would work. The EAW further commented that there was no evidence provided to the ministry to suggest that leveling the trailer would be of benefit to the appellants' health.

### **Admissibility of Oral Testimony**

In the hearing of this matter, in addition to their submissions each of the appellant, his sister, the ministry and the EAW gave evidence in support of their respective positions.

In reviewing this evidence, the panel finds that each person's oral testimony did not raise any new information beyond that which was before the minister at the time the reconsideration decision was made. Further, there were no objections by either the ministry or the appellant as to the admissibility of the oral evidence of either party or the witnesses. The panel therefore admits the oral evidence of the appellant, his sister, the ministry representative and the EAW as oral testimony in support of the information and records that were before the minister when the decision being appealed was made pursuant to section 22(4)(b) of the *Employment Assistance Act*.

## PART F – Reasons for Panel Decision

The issue on this appeal is whether the ministry's decision to deny the appellant's request for a crisis supplement for tires for the trailer in which he resides on the basis that he did not meet the criteria set out in section 57(1) of the *EAPWDR* was reasonable. Specifically, the ministry determined that:

1. The crisis supplement was not required to meet an unexpected expense or obtain an item unexpectedly needed as provided by section 57(1)(a) of the *EAPWDR*;
2. The appellant had not demonstrated that he was unable to meet the expense or obtain the item because there are no resources available to him as provided by section 57(1)(a) of the *EAPWDR*; and
3. The appellant had not established that failure to meet the requested expense or obtain the item would result in imminent danger to the appellant's physical health or removal of a child under the *Child, Family and Community Service Act* as required by subs. 57(1)(b)(i) of the *EAPWDR*.

The criteria to be applied by the ministry on a request for a crisis supplement are set out in section 57(1) of the *EAPWDR* as follows:

- (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*.

In the appellant's Notice of Appeal dated April 3, 2014, the appellant states that the floor of his trailer is damaged due to a broken pipe, that the trailer's tires are 35 years old and "done with" and that the trailer cannot be moved until he has tires on it. At the hearing, the appellant argued that this was not a medical issue and that his request had nothing to do with mental anguish or an emergency but rather to an entitlement under human resources legislation.

The ministry argues that the appellant does not meet any of the three legislative criteria under section 57(1) of the *EAPWDR* for a crisis supplement for tires for his trailer.

### **Analysis**

In order to receive a crisis supplement an applicant must meet all three of the criteria set out in section 57(1) of the *EAPWDR*. If the applicant does not meet each of the three criteria, the crisis supplement will not be provided.

### **Is the expense unexpected or is the item unexpectedly needed?**

The ministry says that the appellant has not established that he requires a crisis supplement to meet an unexpected expense or to obtain an item unexpectedly needed, as required by subs. 57(1)(a) of the *EAPWDR*.

The reconsideration decision states that "It would be expected that when a trailer remains on blocks for a long period, and the tires are no longer used for towing, that the tires would become flat and the rubber would deteriorate. The need for ongoing repairs and levelling of a trailer is routine maintenance and is not

unexpected.” At the hearing, both the ministry representative and the EAW gave evidence that the replacement of tires was not an unexpected expense or an item unexpectedly needed as tires are an item that eventually have to be replaced.

In the Notice of Appeal, the appellant states that the trailer’s tires are 35 years old and “done with” and that the trailer cannot be moved until it has tires on it. The appellant argued that he was entitled to new tires on the basis that human resources legislation provided for it.

The panel notes that tires, whether they are for a vehicle or a trailer, are items that eventually require replacement over time. In the present case, the appellant says in his Notice of Appeal that his trailer’s tires are 35 years old. Further, the appellant was notified by the ministry in its letter of October 29, 2012 that it would approve no further repairs to his trailer and that due to its age it should be expected that repairs would be needed. As such, the panel concludes that the ministry’s determination that the tires sought by the appellant are not an unexpected expense or an item unexpectedly needed was reasonable.

**Is the appellant unable to meet the expense or obtain the item because there are no resources available?**

The ministry says that the appellant has not established that he is unable to meet the expense or obtain the item because there are no resources available to him as required by section 57(1)(a) of the *EAPWDR*. The reconsideration decision states that “the minister cannot determine from the information provided that there are no alternate resources available for the levelling of [the appellant’s] trailer.” At the hearing, the EAW stated that the appellant had not answered his queries as to whether there were other means by which the trailer could be leveled such as using a jack or different blocks.

The appellant argues that the existing trailer tires are “garbage” and cannot be filled with air. He argues that the only solution is for new tires to be placed on the trailer.

Section 57(1)(a) of the *EAPWDR* requires that the appellant must demonstrate that there are no resources available to him to obtain the item or meet the expense that is the subject of his request for the crisis supplement which in the present case are tires for his trailer. The appellant stated that he cannot afford to pay for new tires. However, there did not appear to the panel to be evidence beyond that as to whether there were other resources available to the appellant to replace the tires or other means of leveling his trailer. Given the lack of evidence to address this, the panel finds that the ministry’s determination that the appellant had not established that he is unable to meet the expense or obtain the item because there are no resources available to him was reasonable.

**Will failure to meet the expense or obtain the item result in imminent danger to the appellant’s physical health or removal of a child?**

The ministry argues that while it acknowledges the appellant suffers from a terminal illness, there is no evidence to suggest that failure to purchase new tires will result in imminent danger to his health or that leveling the trailer will assist with his health.

The appellant stated at the hearing that the issue in this case was not “medical” and had nothing to do with mental anguish or an emergency and that he lived alone in the trailer.

Section 57(1)(b) of the *EAPWDR* provides that for a crisis supplement to be granted, it must be demonstrated by a family unit that failure to meet the expense or obtain the item will result in imminent danger to the physical health of any person in the family unit or removal of a child under the *Child, Family and Community Service Act*.

In this case, the appellant has given evidence that he lives alone in his trailer and he has stated in evidence that the issue here is not medical in nature. The ministry has noted that there is no evidence or documentation to support a finding that failure to replace the tires on the appellant's trailer will result in imminent danger to his health and the panel finds that the ministry's determination in that regard was reasonable.

Giving consideration to the evidence, the panel finds that the ministry's determination that the appellant did not satisfy the criteria for a crisis supplement for tires for his trailer as provided by section 57(1)(a) and 57(1)(b) of the *EAPWDR* was a reasonable application of the applicable enactment in the circumstances of the appellant and the panel therefore confirms the ministry's reconsideration decision.