

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “Ministry”) reconsideration decision dated March 17, 2014 which held that the Appellant was not eligible for a crisis supplement for a bed as he did not satisfy three of the eligibility criteria in the Employment and Assistance for Persons with Disability Regulation (“EAPWDR”).

The Ministry held that the Appellant did not confirm that the supplement is needed for an unexpected item or an unexpected expense and that there is no alternate funding available. The Ministry further held that the Appellant did not substantiate that the failure to obtain the item or meet the expense will result in imminent danger to the health of the Appellant as outlined in section 57(1)(a)(b)(i) of the EAPWDR.

PART D – Relevant Legislation

Section 57 of the EAPWDR

PART E – Summary of Facts

The Appellant and the Ministry were not in attendance at the hearing. After confirming that they were notified, the hearing proceeded under section 86(b) of the Employment and Assistance Regulation.

The evidence before the Ministry at reconsideration included the following documents:

1. Employment and Assistance Request for Reconsideration dated March 5, 2014. The Appellant stated the following:
 - a. The Appellant and his girlfriend are on both on disability assistance;
 - b. The Appellant and his girlfriend moved to their current location January 12, 2014 with the clothes on their back;
 - c. The Appellant and his girlfriend are on methadone for over a year and that methadone causes bone deterioration and other physical side effects;
 - d. The Appellant suffered a lower disc problem while incarcerated;
 - e. The Appellant's girlfriend has four children and this has caused her to suffer with serious back problems;
 - f. The Appellant is currently sleeping on the floor;
 - g. The Appellant provided the Ministry with quotes from two furniture stores;
 - h. The Appellant went to a box store and confirmed that they does not sell mattresses;
 - i. The Appellant went to the second hand store and the beds are "old and beatin [sic] up, missing pieces and there is no full queen size beds..."
2. Quotes (undated) from the following stores in their area for one queen sized mattress and box spring:
 - a. A store in the amount of \$898.76 inclusive of taxes;
 - b. A store in the amount of \$1,075.16 inclusive of taxes; and
 - c. A store in the amounts ranging from \$799.99 for the floor display to \$1,499.99.
3. In the Notice of Appeal dated April 2, 2014, the Appellant stated the Ministry was incorrect in their findings for the following reasons:
 - a. The Appellant and his girlfriend are suffering back pain and soreness all over their bodies from not having a bed;
 - b. The Appellant does not have alternative resources to purchase a bed and they do not have the money to buy a bed as a result of being on disability. The Appellant gave a breakdown of his monthly expenses;
 - c. The Appellant's rent is paid directly to the landlord and the landlord illegally evicted the Appellant and threw their personal belongings into the back alley while the Appellant and his girlfriend were away from the home. The Appellant was consequently forced to leave all their belongings in the back alley;
 - d. The Appellant and his girlfriend filed a dispute resolution with the Landlord Tenancy Branch but due to an unexpected move to another town they were unable to provide the Tenancy Branch with their evidence and the hearing was suspended; and
 - e. The Appellant has no money to buy a bed and there are no local free resources to get a bed.

4. Medical Certificate dated April 3, 2014 stating the following:

- a. That on April 3, 2014 the medical practitioner examined the Appellant;
- b. That the Appellant informed the medical practitioner that he and his girlfriend have chronic mechanical back pain;
- c. That the medical practitioner stated that is "quite possible" that sleeping on the floor will aggravate the pain.

The Panel finds that the additional information was admissible under section 22(4) of the *Employment and Assistance Act* (the "Act") as it was in support of the records before the Ministry at reconsideration.

PART F – Reasons for Panel Decision

The issue is whether the Ministry's decision to deny the Appellant a crisis supplement for a bed for failing to establish the legislative requirements pursuant to section 57(1)(a)(b)(i) of the EAPWDR is a reasonable application of the legislation in the circumstances of the Appellant or is a reasonably supported by the evidence.

Legislation

Section 57 of the EAPWDR is the section that addresses crisis supplements under the legislation. The EAPWDR gives ministerial discretion to allow the Ministry to provide certain crisis supplements to a family unit eligible for disability assistance providing that the applicant requires the supplement to meet an unexpected expense or obtain an unexpected cost and there are not alternate resources available pursuant to section 57(1)(a) and that the failure to meet the expense or obtain the item will result in the imminent danger to the physical health of any person in the family unit pursuant to section 57(1)(b)(i).

Section 57(1) states the following:

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*.

Ministry's Position

In determining that the Appellant was not eligible for a crisis supplement for the mattress, the Ministry concluded that the criteria as set out in section 57 of the EAPWDR had not been met.

In applying section 57(1)(a), the Ministry concluded that the Appellant did not establish that the need for a bed was unexpected or that there was "no existing accessible options available for a lower cost alternative for a bed." The Ministry additionally noted that the Appellant did not confirm that the failure to obtain a bed will result in an imminent danger to the Appellant's health pursuant to section 57(1)(b)(i).

Appellant's Position

The Appellant argued that the Ministry was incorrect in their findings stating that the replacement of their bed was an unexpected cost as the landlord illegally evicted the Appellant and threw their personal belongings into the back alley while the Appellant and his girlfriend were away from home.

The Appellant stated that he did not have an automobile to retrieve the items and the Appellant was consequently forced to leave all their belongings in the back alley and that as a result of the sudden eviction they had to abruptly move from their current location to their existing location with only the

clothes on their back.

The Appellant furthered argued that he does not have alternative resources to purchase a bed and he does not personally have the money to buy a bed as both the Appellant and his girlfriend are on disability assistance and he submitted a list of his monthly expenses. The Appellant noted that there are also no "free resources" to get a bed in his community.

The Appellant also submitted that the failure to obtain the bed will result in the imminent danger to his physical health stating that he is on methadone which causes bone deterioration and other physical side effects. The Appellant noted that he also suffered a lower disc problem.

The Appellant had a medical certificate that stated it is "quite possible" that sleeping on the floor will aggravate the pain resulting from chronic back pain that the Appellant informed the medical practitioner he was suffering from.

The Panel Decision

The law is clear that the Ministry may provide certain crisis supplements to those individuals on disability assistance so long as the item is an "unexpected expense" or an "unexpected cost" and the applicant does not have alternate resources available to them to cover the cost of the expenditure. The law also includes a provision that requires that the failure to obtain the item will result in imminent danger to the Appellant's health.

Section 57(1)(a) EAPWDR

Section 57(1)(a) requires that the replacement of the Appellant's bed is an unexpected costs or expenses. The Appellant argued that the loss of his bed was the result of being wrongfully evicted and his landlord taking his belongings from his home and placing them in the back alley. The Appellant acknowledged that he was aware that his belongings were left in the back alley but that he had no means of transportation to retrieve the items and they were consequently left in the back alley.

There is no evidence, however, to support that the Appellant was either evicted from his home or that that as a result of his eviction resulted in his belongings being placed in the back alley. The Appellant gave evidence that he filed a dispute resolution with the Landlord Tenancy Branch but due to his unexpected move to another town he was unable to provide the Tenancy Branch with his evidence and the hearing was suspended.

The Appellant does not provide evidence to support he was abruptly and wrongfully evicted from his residence and that the items in his home were placed in the back alley. The loss of his bed and the subsequent request for the replacement bed cannot therefore be characterized as an unexpected cost or expense for the purpose of section 57(1)(a).

Section 57(1)(a) also requires that the Appellant search out other resources that are available to the him. The Appellant argued that there was no "alternate resources available" to cover or assist in the cost of replacing the bed. The Appellant made inquiries to determine if there were any organizations within his community that could assist him with replacing the bed and was unsuccessful. The Ministry, however, was not satisfied that the Appellant provided evidence to confirm there were no existing accessible options available to him to purchase a bed. The Appellant claimed he made

attempts to find organizations that might give him a bed but did not provide details as to which organizations he consulted and the purported outcome.

The Appellant also argued that he did not personally have additional monies after his monthly living expenses were paid and provided a handwritten detailed monthly living expense sheet and although the Appellant provided a breakdown of his living expenses this in itself does not support his claim that he does not have the personal resources to replace his bed. The Appellant unfortunately did not submit documentation in the form of receipts or previous bills which would otherwise verify he was not able to afford the cost of a new bed.

The Panel therefore finds that the Ministry was reasonable in their determination that the replacement of the bed was not an unexpected cost and that the Appellant did not establish that there were no alternate resources available to cover or assist in the cost of replacing his bed pursuant to section 57(1)(a) of the EAPWDR .

Section 57(1)(b) EAPWDR

The Appellant, however, did not provide the Ministry with any documentation or confirmation that would support the failure to obtain a bed would result in the imminent danger to his physical health pursuant to section 57(1)(b) of the EAPWDR.

The Appellant submitted a medical certificate that stated the Appellant had informed the medical practitioner that he suffers from a history of back problems. The doctor was cautious not to say the Appellant was suffering with a chronic back problem and did not supply the results of any tests that may have been conducted.

The practitioner also concluded that sleeping on the floor could quite possibly aggravate the Appellant's condition but again the practitioner did not diagnose the Appellant with a back condition but rather the Appellant informed the practitioner that he had a condition. Given that the practitioner seemingly relied on the Appellant's diagnosis and provided nothing in terms of test results to support the claim it is not certain that the Appellant actually has a back condition or a back condition that would create an imminent danger to his physical health if he was not able to secure a bed.

The Appellant did state that his prolonged use of methadone has caused bone deterioration which could conceivably create an imminent danger to his physical health which could conceivably create such a danger, but there is similarly no evidence to support this condition and/or that the failure to obtain a bed would result in such danger as a result of the Appellant's bone deterioration.

The Panel finds therefore find the Ministry's determination that that the Appellant was not eligible for a crisis supplement for a bed as he did not satisfy all the eligibility criteria in section 57(1)(a)(b) of the EAPWDR was reasonably supported by the evidence and confirms the decision.