

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (Ministry's) reconsideration decision dated May 5, 2014 which held that the appellant is not eligible for a crisis supplement for a bed, bedding, and various household items pursuant to section 59 of the Employment and Assistance Regulation (EAR). Specifically, the Ministry found that 3 criteria in subsection 59(1) were not met because the minister was not satisfied that:

1. The crisis supplement was required to meet an unexpected expense or obtain an item unexpectedly needed;
2. There are no resources available in the family unit to meet the need; and
3. 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.

PART D – Relevant Legislation

Employment and Assistance Act – EAA - section 4
Employment and Assistance Regulation – EAR – section 59

PART E – Summary of Facts

The evidence before the Ministry at reconsideration included:

- A Request for Reconsideration signed by the appellant on April 30, 2014 in which he stated that: 1) his physical health is in imminent danger because he is sleeping on a cold, concrete basement floor; 2) he would appreciate a list of community resources; and 3) he was evicted from his residence in another province because he was no longer attending school. He did not have a bed at his former residence and was on income assistance. He could not find an affordable residence for the same rent he was paying before and was faced with being homeless. He moved to BC to live with his father; could not afford any other option; and is concerned that his Charter rights have been violated.
- A letter from the appellant's father dated February 15, 2014 addressed "To Whom It May Concern" in which he stated that the appellant "is renting a room from me for \$400 a month at (appellant's address)."
- A letter from the appellant dated April 8, 2014 addressed to the Ministry in which he stated that "I am in need of, and requesting financial start-up allowance for the following items: Bed, Bedding, Kitchen utensils, and Any other items that may be covered by this program."

In his Notice of Appeal dated June 6, 2014, the appellant stated that he could no longer attend school in his former province "due to unexpected financial hardship Specifically a denial to a (provincial) student loan". He stated that he "did not leave behind a bed or abandon belongings, but brought what I could given my finances." The panel finds that the statements in the Notice of Appeal relate to the appellant's need for the items and his financial resources. The panel admits these statements pursuant to section 22(4)(b) of the *EAA* as testimony in support of the information and records that were before the Ministry at the time the decision being appealed was made.

In its Reconsideration decision, the Ministry stated that on April 9, 2014 the appellant requested assistance with the purchase of a bed, bedding, and various household items because he had left all of his personal items behind when he moved from another province.

The Ministry's background information indicated that:

- The appellant receives income assistance as a sole recipient;
- He had 3 contacts with the Ministry between April 9-15th, 2014 with regard to his request for the crisis supplement;
- The Ministry offered the appellant a list of local community resources on April 9th but he declined it;
- The appellant advised that when he was evicted from his residence in his former province, he was not able to locate an affordable residence to move his belongings to. When he moved to BC to live with his father he brought only a carry-on bag.

The appellant did not attend the hearing. After confirming that he had received notification of the hearing date, time, and location, the hearing proceeded under section 86(b) of the *EAR*. The Ministry summarized its reconsideration decision at the hearing and added that it reviewed the eligibility criteria for the crisis supplement with the appellant during all 3 contacts in which his request was discussed.

In response to questions from the panel, the Ministry stated:

- It does on occasion provide beds or bedding such as when there are bed bugs or the items have been destroyed in a fire.
- A list of community resources is readily available at the Ministry's office, and Community Services also has a list of local agencies. There are non-profit organizations in the appellant's community that assist with items such as beds.
- The Ministry looks at whether there is imminent danger to a client's physical health (if a crisis supplement is not provided) on a case by case basis. The Ministry does not make a home visit to verify the client's circumstances. It looks at the situation in the context of the information the client provides.

The panel makes the following findings of fact:

- The appellant receives income assistance as a sole recipient.
- The appellant left school in another province when his student loan didn't come through; was evicted from his residence for not attending school; could not find an affordable residence to move his belongings to; and moved to BC to live with his father but could not afford to bring his belongings with him
- In February 2014, the appellant's father verified that he was renting a room to the appellant for \$400 per month.
- The appellant requested a crisis supplement for a bed, bedding, and household items on April 9, 2014.
- There are community and non-profit organizations in the appellant's community that assist with obtaining beds and other items.

[REDACTED]

PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the ministry's reconsideration decision of May 5, 2014, which held that the appellant is not eligible for a crisis supplement to purchase a bed, bedding, and household items pursuant to section 59 of the EAR. The Ministry was not satisfied that the crisis supplement was required to meet an unexpected need; that there are no resources available in the family unit to meet the need; and that failure to obtain the items will result in imminent danger to the physical health of any person in the family unit.

The following sections of the legislation apply to crisis supplements:

EAA Income assistance and supplements:

Section 4 states that: *Subject to the regulations, the minister may provide income assistance or a supplement to or for a family unit that is eligible for it.*

EAR Crisis supplement:

Pursuant to section 59:

- (1) The minister may provide a crisis supplement to or for a family unit that is eligible for income 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:
 - (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.

The panel notes the Ministry's information that the appellant is eligible for income assistance. He therefore meets that requirement under section 59(1) of the EAR. The Ministry does not dispute that this criterion is met. The panel further notes that section 4 of the *EAA* gives the minister discretion to

provide a crisis supplement to a family unit when all eligibility criteria are met. In the appellant's circumstances, the 2 criteria in subsection 59(1)(a), and 1 criterion in subsection 59(1)(b) must be satisfied. These are discussed as follows:

Unexpected expense or item unexpectedly needed, EAR subsection 59(1)(a):

Appellant's position

In his Notice of Appeal, the appellant argued that his need for a bed, bedding, and household items was unexpected. He experienced "unexpected financial hardship" when his student loan application was denied "due to no fault of my own." In his Request for Reconsideration, he argued that when "faced with being homeless", he could not afford any other option but to move in with his father in BC, and leave his belongings behind.

Ministry's position

In its reconsideration decision, the Ministry's position was that the appellant's need for a bed and other items was not unexpected because "If it was a requirement to be attending school in order to reside where you were, then ministry is not satisfied it was unexpected that you were evicted when you were no longer attending school." At the hearing, the Ministry added that the appellant provided no documentation or information regarding the circumstances of his leaving school or whether he explored any other way to remain in school to avoid eviction.

The Ministry further argued that "a crisis supplement is for unexpected/unforeseen circumstances that can't be reasonably planned for, but the appellant has been staying with his father since at least February but did not request the crisis supplement until April. He therefore had time in between to pursue something else." The ministry argued that since the appellant was living with his father without a bed since at least February, his need for a bed and the other items was not unexpected because he had 2 months to look into obtaining them.

Panel's decision

The panel finds that the Ministry reasonably determined that the appellant's need for a bed, bedding, and various household items was not unexpected. While the Ministry logically argued that the appellant would have known that attending school was a condition of residing at his former residence, the panel finds that the evidence with regard to why he stopped attending school does not establish an unexpected circumstance. The evidence was that the appellant did not elaborate on why his student loan didn't come through unexpectedly; he only reported that it was "through no fault of my own."

With regard to the amount of time that passed before the appellant applied for the crisis supplement, the panel is of the view that it would have been reasonable for the appellant to obtain a bed and other items shortly after moving to BC, rather than waiting 2 months to apply for the crisis supplement. In the panel's view, sleeping on the floor without a bed for 2 months does not confirm that an item was unexpectedly needed as required under subsection 59(1)(a). The panel finds that the Ministry was

therefore reasonable in determining that the appellant did not require the crisis supplement to obtain an item unexpectedly needed pursuant to subsection 59(1)(a) of the EAR.

No resources available, EAR subsection 59(1)(a):

Appellant's position

In his Request for Reconsideration, the appellant argued that he did not have any resources because he was on income assistance in his former province of residence; did not have a bed there; and he could not afford to move his belongings to BC; he brought what he could with him. He argued that his "Charter Rights have been violated" because he could not afford any other option except to move to BC without his belongings. In his Notice of Appeal, he argued that "I do not have the Funds to purchase the requested items on my own or through any other community resources, family or friends." In his letter of April 8, 2014, the appellant indicated his need for resources by requesting a "financial start-up allowance" for a bed and other items.

Ministry's position

In its reconsideration decision, the Ministry argued that the minister was not satisfied that the appellant did not have funds to purchase the requested items or that he had exhausted all other resources because "you have not provided any information to confirm that there are no resources available to assist you." At the hearing, the Ministry submitted that a client would always be told about the list of community resources, or provided with a copy of the list if they indicated a need for a bed or other items. The appellant did not indicate that he obtained the list, contacted any of the resources listed, or that he "tried to get items here and there."

The Ministry further submitted that if a client left their belongings due to a significant expense in moving the items (from one province to another, for example), the Ministry would take that into consideration in determining whether there were resources, but also look at the reason for the move. In the appellant's circumstances, the Ministry considered that he "chose to leave school to come here" as he did not advise why his student loan had failed to come through. At the hearing, the Ministry explained that the appellant receives income assistance including the shelter component to pay for his expenses and his room, and he is expected to use his support funds to pay for his basic needs.

Panel's decision

The panel finds that the Ministry reasonably determined that the appellant did not meet the criterion of "no resources available to the family unit" pursuant to subsection 59(1)(a) of the EAR. With regard to financial resources, the appellant stated that he was on income assistance in another province and the Ministry noted that he continues to receive income assistance in BC to pay for his basic needs.

With regard to community resources, the evidence indicates that while the appellant initially declined a copy of the Ministry's list of community resources but then stated that he would "greatly appreciate" the list, there is no evidence that he picked up the list and contacted any of the agencies that assist people with beds and other items. While the panel accepts the appellant's evidence that he could not

afford to move the majority of his belongings across the country, he would still have the obligation to use his income assistance funds to meet his basic needs, and access community organizations in an attempt to spread his resources further once he arrived in BC.

Further, the panel is of the view that the appellant could have looked into and contacted community resources in the time period between moving to BC to live with his father, and applying for the crisis supplement on April 9th; however, there is no evidence that he did so. With regard to the appellant's request for a "financial start-up allowance" which he would use to purchase a bed and other items, the panel notes that section 59 of the EAR pertains to a crisis supplement for unexpected circumstances, and does not mention any start-up allowance for a move to a new residence in another province.

With regard to the appellant's view that "my s.6(2)(a)(b), (3)(a) Charter Rights have been violated" because "I could not afford any other option" but to move in with his father in BC and leave his belongings behind, the panel does not have the authority to consider the appellant's Charter argument when determining the reasonableness of the Ministry's finding that "there are no resources available to the family unit" pursuant to subsection 59(1)(a) of the EAR. Section 19(1) of the *EAA* imports section 44(1) of the *Administrative Tribunals Act* which states the tribunal does not have jurisdiction over constitutional questions.

Imminent danger to physical health, EAR subsection 59(1)(b)(i):

Appellant's position

In his Request for Reconsideration, the appellant argued that "I am at risk of imminent danger to my physical health as I am sleeping on a basement floor that is cold concrete."

Ministry's position

The Ministry's position is that the minister was not satisfied that "failure to assist you with the funds to purchase a bed would result in imminent danger to your physical health." In its reconsideration decision, the Ministry noted that "'imminent' leads one to believe there is a sense of urgency in the danger to your physical health and you advise you have been sleeping on the floor and the ministry assumes you have been sleeping on the floor since February." Further, the Ministry argued at the hearing that since the appellant is paying \$400 per month for his room, "there are certain criteria regarding health and safety and things to be provided. It would be separate tenancy legislation but it plays into income assistance."

Panel's decision

Subsection 59(1)(b)(i) of the EAR section requires there to be a direct link between not obtaining the crisis supplement for the requested items and imminent danger to physical health. The panel notes that while the appellant reported that he was sleeping on a cold, concrete floor while paying \$400 per month rent, he did not confirm how long he had been in that situation or whether he had ever had any kind of mattress or a couch to sleep on at his father's place. Without detailed information regarding the imminent danger he faced, the Ministry could not be satisfied that the appellant's health would be

in danger if he did not receive a bed. The panel therefore finds that the Ministry reasonably determined that there is no imminent danger to the health of anyone in the family unit as required under subsection 59(1)(b)(i) of the EAR.

Conclusion

The panel finds that the Ministry's denial of the appellant's request for a crisis supplement for a bed, bedding, and various household items was reasonably supported by the evidence. Accordingly, the panel confirms the Ministry's reconsideration decision.