

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) June 16, 2014 reconsideration decision denying the appellant's request for a crisis supplement for utilities, specifically hydro, because the need to pay hydro was not unexpected and failure to provide the item will not result in imminent danger to the appellant's health as required in section 57 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR).

PART D – Relevant Legislation

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

## PART E – Summary of Facts

The information before the ministry at reconsideration included the following:

From ministry files:

- On March 14, 2014 the appellant was advised of the decision: the appellant had submitted a past due \$3035.78 hydro bill and a disconnection notice for April 2, 2014. The ministry denied a crisis supplement for utilities and advised the appellant of his right to reconsideration.
- On April 11, 2014 appellant submitted his request for reconsideration and request for extension. [At the hearing the appellant clarified that these requests were submitted orally and not in writing.]
- The appellant is a sole PWD recipient with no dependents.
- Monthly assistance: \$941.42 (375 shelter, 506.42 support, 35 diet).
- Crisis supplements issued past 12 months: \$240 crisis hydro (January), \$60 crisis food (20x3).
- On October 1, 2012 the appellant moved into his current residence.
- His rent is \$659 per month plus utilities.
- The rent of \$659 is paid directly to the landlord, \$20 to a repayment, and the balance of \$262.42 to the appellant.
- On January 8, 2014 the appellant had attended the ministry office with a letter from BC Hydro requesting a security deposit of \$291.00; he advised that he has lived at the same address since October 1, 2012 and was not sure why he received the above letter at this time.
- The ministry called BC Hydro and was advised that letters had been sent to the appellant as well as the owner of his accommodation every few months.
- The ministry was informed by BC Hydro that the appellant would be billed \$100 per month for charges going back to October 2012, and the remainder of the debt was to be paid for through an equal payment plan from the appellant's monthly assistance.
- In January 2014 the ministry assisted the appellant with a \$290 security deposit to BC Hydro and \$240 crisis supplement to BC Hydro.

The appellant's BC Hydro bill dated February 19, 2014 states that

- \$3,035.78 are past due;
- 2 payments were received on January 16, 2014 for \$290 and \$240;
- outstanding charges are from October 1, 2012 to February 13, 2014;

A letter from BC Hydro dated December 27, 2013 stating that

- a security deposit of \$291 is required from the appellant by January 6, 2014 to secure his account;
- promptly providing the security deposit prevents possible credit action that could lead to disconnection;
- the deposit is refunded when payment is received by the due date for 12 consecutive months.

In his Notice of Appeal dated June 23, 2014 the appellant states that he lives in BC Housing since October 2012. BC Housing called BC Hydro to confirm his address. Bills came to the house addressed to Occupant but the ministry said they would be sending a \$100 a month directly to BC Hydro on his behalf. He is on PWD and has severe arthritis and diabetes.

At the hearing further evidence was provided:

The advocate submitted 3 documents and a submission:

- 1) A 1-page Application For Rent Subsidy to BC Housing;
- 2) A 2-page BC Hydro bill dated June 27, 2014 for past due \$3,617.85;
- 3) A 1-page BC Hydro Notice of Credit Referral dated July 11, 2014;
- 4) A 2-page submission dated July 18, 2014.

The ministry did not object to items 1) to 4) being admitted as evidence.

The ministry provided a copy of a written entry from ministry files dated October 16, 2012 stating that the appellant attended the office having difficulty setting up hydro at his new residence. BC Hydro will not set up an account and service until arrears from past bill are paid. The amount is an adjustment on an old equal payments plan as confirmed by BC Hydro. The ministry issued a one-time crisis supplement to meet the appellant's need, as BC Hydro confirms there is a 48 hours disconnect notice scheduled to disconnect on October 17<sup>th</sup>.

No BC Hydro Equalized Payment Plan (EPP) was ever set up at the appellant's current address [as given on his Notice of Appeal]. BC Hydro would not set up a new account for the appellant until his old account was settled. He has an old EPP at a previous address. At the hearing the ministry clarified that the EPP on the appellant's current address came in later - in January 2014 – so that BC Hydro could then put this account in the appellant's name.

The appellant and the advocate did not object to the admission of the ministry's new evidence.

At the hearing the appellant stated that he has been living in a 3 bedroom townhome. He has misplaced mail, never has time to look through mail, throws out mail that is addressed to Occupant, and never received a hydro bill. His hydro was cut off on June 16, 2014. Until it was disconnected he used hydro regularly in his home. Since his hydro was cut off he goes to his daughter's home during the day and eats there and does his laundry there. His cell phone is set up for prepayment and he pays the bills for his home phone.

He has a grade 10 education. The advocate stated that the appellant has problems with reading and comprehension. The appellant stated that he told the ministry in person that he requested reconsideration.

He received a crisis supplement of \$240 a long time ago, before he moved into his current address. It is a coincidence that the amount is the same as the January 2014 crisis supplement.

The ministry relied on its reconsideration decision.

Pursuant to section 22(4) of the Employment and Assistance Act the panel admits the appellant's statements in his Notice of Appeal and his testimony as being in support of the information that was before the ministry at reconsideration. These statements provide additional details and background regarding the appellant's request for a crisis supplement for hydro.

With exception to information concerning the appellant's daughter and the June 27<sup>th</sup> hydro bill the

panel admits the advocate's submission because it re-iterates information that was before the ministry at reconsideration. The panel does not admit the appellant's application for rent subsidy, his June 27, 2014 BC Hydro bill and his BC Hydro notice of credit referral because these documents are not in support of the information that was before the ministry at reconsideration.

**PART F – Reasons for Panel Decision**

The issue under appeal is whether it was reasonable of the ministry to deny the appellant's request for a crisis supplement for hydro in accordance with section 57 of the EAPWDR; specifically, did the ministry reasonably determine that the need to pay hydro was not unexpected, and that failure to provide this supplement will not result in imminent danger to the appellant's physical health?

The following section of the EAR applies to this appeal:

**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, ...

(2) A crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made....

(4) A crisis supplement provided for food, shelter or clothing is subject to the following limitations:...

(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; ...

(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:

...

(d) hydro.

*Unexpected expense or obtain an item unexpectedly needed:*

The appellant argues that the \$3000 hydro bill was unexpected because he was under the impression that the ministry would take care of his hydro bill since they said they would deposit \$100 per month directly to hydro. The ministry was dealing with hydro on his behalf and he authorized them to make payments on his behalf. He was unaware that ministry was not sending his monthly hydro payment and it wasn't until February 2014 that he received the demand from BC Hydro for a security deposit and for the arrears. Before February the hydro bills came addressed to occupant, and since he does not open mail addressed to occupant he was not aware of these hydro bills.

The ministry argues that since the appellant's rent does not include utilities he has to pay for hydro separately on an ongoing basis. Furthermore, notices were mailed to the appellant and the need to pay for ongoing hydro is not unexpected. In addition, the ministry argues that it does not understand how the appellant was expecting regular monthly payments to BC Hydro to be made by the ministry when there was no BC Hydro Equalized Payment Plan (EPP) set up at the appellant's current address until January 2104.

The panel finds that the appellant was aware that he had to pay for hydro as his rent did not include utilities and he used hydro on an ongoing basis from the beginning of his tenancy. The panel considers it improbable that the appellant did not receive any hydro notices before February 2014, especially in light of the fact that the ministry provided the appellant with a total of \$530 crisis supplements for hydro in January 2014. Furthermore, the panel finds that there is no evidence that the ministry should have been making hydro payments on the appellant's behalf before January 2014. For these reasons the panel finds the ministry was reasonable in determining that the past due \$3000 hydro bill was not unexpected pursuant to section 57 (1)(a) EAR.

*Failure to provide the item will result in imminent danger to the appellant's physical health:*

The appellant argues that failure to provide a crisis supplement for hydro will put his health in jeopardy because he has severe arthritis and diabetes, and being cut-off from hydro would put his health in imminent danger. The advocate argues that the appellant has severe health conditions, and without hydro he cannot keep his residence in sanitary condition, his personal hygiene will suffer, he will not be able to keep food fresh, and he will not be able to cook.

The ministry argues that instead of paying out over \$3000 to BC Hydro the appellant could move to a more affordable residence where rent includes utilities. That way he would avoid danger to his health.

The panel finds that pursuant to section 57(1)(b)(i) that while it can be expected that a hydro shut-down causes inconvenience and may affect the appellant's health, there is not enough evidence that failure to provide a crisis supplement for hydro will result in imminent danger to the appellant's physical health.

For these reasons the panel finds that the ministry's decision was a reasonable application of the legislation in the circumstances of the appellant in denying the appellant's request for a crisis supplement for hydro. The ministry's decision is confirmed.