

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “Ministry”) reconsideration decision dated June 16, 2014 which held that the Appellant was denied a crisis supplement for shelter pursuant to section 57 of the Employment and Assistance for Persons with Disabilities Regulation (the “EAPWDR”).

The Ministry found the Appellant was not eligible for a crisis supplement for shelter as the Appellant had not established it was an unexpected need or expense and that there were no resources available to meet this need pursuant to section 57(1)(a) of the EAPWDR.

PART D – Relevant Legislation

The Ministry relied on the following legislation in making their determination:

- Employment and Assistance for Persons with Disability Act (the “EAPWDA”), section 5
- Employment and Assistance for Persons with Disability Regulation (the “EAPWDR”), section 57(1)(a)

PART E – Summary of Facts

The Appellant was 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:

Employment and Assistance Request for Reconsideration dated June 9, 2014 (the "Request") which stated the reason for request for reconsideration is because the Appellant went to the Ministry office to ensure the rent would be paid direct to the landlord and not "held back." The Appellant states she phoned the office on two different occasions and was told it would be paid direct to the landlord as it had always been in the past.

The Request had the following attached documents:

1. Letter from the Appellant dated June 9, 2014 which states that the Appellant and her family were cut off child tax for one month and three weeks and that she normally receives \$307.00 for 4 children for child tax credit and they received \$120.00 from welfare.

The Appellant states that her family is dealing with bed bugs and is in arbitration with her landlord.

The Appellant explains that the reason their child tax cheque was temporarily reduced was due to not filing her 2012 tax return which has since been completed. The Appellant expressed frustration for having to live off of \$27.00 for the month with four children and states she finally received her children's money direct deposit.

The Appellant states that she did not realize her rent was not paid direct deposit by the Ministry until she went to the office to ask for the rent to go back to direct deposit and that she did call twice.

The Appellant asks for help as there is no one else to ask for help and they have no one to ask for money from to pay the remainder of their rent.

2. Newspaper article dated March 28, 2014 featuring the Appellant and her complaint against her landlord regarding bed bugs.
3. 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated June 5, 2014 from the landlord to the Appellant on another notice given for cause.
4. Notice of Dispute Resolution Hearing dated April 28, 2014 with the Appellant's application for dispute resolution for the Appellant and her landlord.

The Appellant's Notice of Appeal dated June 27, 2014 states that the Appellant thinks that the amount of hardship is unfair as they have tried to access money and were told no one will help and they need their rent paid as they are trying to fix their relationship with their landlord.

The Ministry did not submit additional evidence on appeal and relied exclusively on the

APPEAL

Reconsideration Decision.

PART F – Reasons for Panel Decision

The issue at appeal is whether the Ministry's decision to deny the Appellant a crisis supplement for shelter is a reasonable application of the legislation in the circumstances of the Appellant or is reasonably supported by the evidence.

The Ministry relied on section 57(1)(a) of the EAPWDR to find that the Appellant was not eligible for a crisis supplement. The section has been reproduced below:

(A) 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

Ministry Argument

In determining that the Appellant was not eligible for a shelter supplement for failure to meet the legislative requirements pursuant to section 57(1)(a) of the EAPWDR, the Ministry stated the following:

Although the ministry did not pay your rent directly to your landlord, you received the amount of disability assistance you get every month. In addition, although you state you did not get your child tax benefit, the ministry is not satisfied that this was unexpected either as you stated you have been without it for 3 weeks and one month. The Ministry is not satisfied there are no other resources available to assist you with your need to pay your June rent. As you advise you have filed your taxes so you are able to receive your child tax benefit...

The Ministry argued that the Appellant received her assistance cheque for the month of June although it was given to her spouse directly when he attended the Ministry office in person. The Ministry claimed they had been given instruction not to pay the landlord directly on account of an ongoing tenancy dispute between the Appellant and the landlord.

The Ministry stated that the Appellant had not been eligible for her child tax benefit for almost two months and it is now not reasonable to claim this was unexpected as she had not received the child tax benefit for almost two months and she should have expected that she would not receive the child tax benefits as in previous months.

The Ministry also argued that the Appellant now had the resources to pay her rent as her taxes were filed thereby allowing her to receive her child tax benefit cheque.

Appellant Argument

The Appellant argued that she is applying for the crisis supplement to pay the unpaid portion of her rent for the month of June 2014. The Appellant stated that she expected and relied on the Ministry

paying her rent directly and that she was unaware that they did not pay her landlord directly. As a result, the Appellant did not have sufficient funds to pay her June rent.

The Appellant further argued that she did not receive her child tax benefits cheque for one month and three weeks so she could not rely on that to assist her with her rent and there are no other resources available to help her and her family.

Panel Decision

In order to be eligible for a crisis supplement under section 57 of the EAPWDR, the Ministry has to be satisfied that the applicant fulfills a number of requirements listed in this section. The Ministry found, however, that the Appellant failed to establish that shelter was an unexpected expense or unexpectedly needed and that she was unable to meet the expense or obtain the item because there were other resources available to her as required by subsection (1)(a).

Unexpected Expense or Need

The Ministry gave evidence at the appeal hearing that they did not, on the Appellant's express authorization, pay rent directly to the Appellant's landlord rent for the month of June. The Ministry stated that as a result of a dispute between the Appellant and the landlord and the ongoing arbitration between the parties the Appellant had requested and gave notice to the Ministry to "stop rent" which prohibited the Ministry from paying the landlord directly as had been done in the past.

The Ministry stated that this is accepted and normal practice which requires the Ministry to refrain from paying the landlord directly, but they noted that this does not stop the Appellant from receiving the assistance for the respective time period. The Ministry noted that the Appellant's spouse did attend the office to collect the cheque and that the Appellant did in fact receive her normal disability assistance for the month at issue.

The Appellant submitted that she went to the office to make sure the rent would be paid directly to her landlord and on two different occasions verified with the Ministry that this was to happen. The Ministry noted that the Appellant informed them that the Appellant's spouse also called to the Ministry office twice to ensure the rent was paid directly to the landlord.

The facts before the Panel confirm the Appellant was in the middle of a dispute with her landlord and gave evidence in the form of a newspaper article to illustrate the publicized dispute between the Appellant and her landlord. It therefore is reasonable that the Appellant or the Appellant's spouse would have requested that the rent not be paid directly to the landlord.

It also is unlikely that the Ministry would unilaterally make this decision on behalf of the Appellant particularly when the Ministry explained that there are procedures in place to change the method of payments which require the Appellant's consent. Prior to this the Appellant's landlord was paid rent directly.

While the Appellant argued that the immediate and unexpected requirement of the shelter supplement is a direct result of the Ministry holding back her rent payment and not paying her landlord directly without her knowledge, the Appellant did in fact receive her assistance for the respective month. The Appellant did not acknowledge in her submissions that her spouse retrieved the cheque on their behalf, however, the Panel accepts the Ministry's submission that the assistance

for the month of June was received by the Appellant and/or the Appellant's spouse.

The Appellant cannot therefore argue that the failure to pay her full rent was an unexpected need or expense when the fact is the Appellant received the assistance for the month of June and they failed to pay it to their landlord.

The above discussion does not take into account that the Appellant gave evidence that she received her child tax benefit cheque in the interim and presumably no longer requires the crisis supplement to pay the outstanding portion of her rent.

For these reasons, the Panel finds the Ministry was reasonable in their findings that the shelter supplement was not an unexpected cost or an item that was unexpectedly needed pursuant to section 57(1)(a) of the EAPWDR.

Unable to Meet the Expense

In addition to establishing the Appellant requires the supplement to meet an unexpected expense or to obtain an item unexpectedly needed, the Appellant must also show that she is unable to meet the expense or obtain the item because there are no resources available to her pursuant to section 57(1)(a).

The Ministry argued that the Appellant had resources available to pay her June rent as the Appellant advised them that she has now filed her taxes and she is able to receive her tax benefit. The Appellant claimed that they have tried to access money from other sources but she was told no one would help them.

The Appellant gave evidence as stated above that she had received her child tax benefit direct deposit which changes the Appellant's position given the time that has lapsed during the appeal process. As far as the facts suggest, including that June assistance was provided directly to the Appellant's spouse, the Appellant does have the resources to pay the remainder of her rent for the month of June. The Appellant was not in attendance to discuss the particulars of the funds.

Regardless of whether or not she had the resources to pay the remainder of her rent, the Appellant does not elaborate on what efforts, if any, she used to access other resources. The lack of evidence provided in the materials, however, suggests that no additional efforts were used to access other resources on behalf of the Appellant.

For these reasons, the Panel finds that the Ministry's determination that the Appellant had resources available to her to pay the unpaid portion of her rent was reasonable pursuant to section 57(1)(a) of the EAPWDR.

As the requirements of section 57(1)(a) of the EAPWDR were not met, the Panel finds the Ministry's determination that the Appellant be denied a crisis supplement was reasonably supported by the evidence and confirms the decision.