

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision dated July 9, 2014 in which the ministry denied the appellant a crisis supplement for shelter because the request did not meet the criteria in the Employment and Assistance Regulation (EAR) Section 59. The legislation requires that the need for a crisis supplement be unexpected, that the person not have the resources available, and that failure to provide the supplement would result in imminent danger to his or his family members' physical health or the removal of a child under the Child, Family and Community Services Act.

PART D – Relevant Legislation

Employment and Assistance Act section 4
Employment and Assistance Regulation section 59.

PART E – Summary of Facts

The information before the ministry at the time of reconsideration included the following:

- An eviction notice for the appellant's home dated June 1, 2014 giving the appellant until June 1, 2014 to vacate the home. The notice states that his rent is in arrears \$300 for May 2014 and \$900 for June 2014.
- An eviction notice for the appellant's home dated June 1, 2014 giving the appellant until June 15, 2014 to vacate the home.
- A cheque cashing history document from a cheque cashing company showing he cashed 4 cheques between April and June 2014. April 16 for \$1160.05, May 15 for \$300, May 16 for \$297.79, and June 19 for \$293.94.
- A cheque stub for his Child Tax Benefit dated May 20, 2014 showing the appellant received \$293.79.
- Bank statements for the appellant's accounts for April and May 2014 showing his individual transactions.
- A bank statement from the appellant's bank showing his transactions for April 17 to May 31, 2014.
- A letter from the appellant undated stating that he is behind on his rent a total of \$900 from May and June because his Child Tax Benefit (CTB) was reduced from \$1100 to \$300 in May.
- A residential tenancy agreement in the name of the appellant dated September 1, 2012.
- The request for reconsideration document dated July 3, 2014 where the appellant writes he is behind on his rent due to his CTB being reduced unexpectedly because of his ex-wife claiming the children were staying with her. He adds that he cannot work because he is waiting for knee replacement surgery.
- The appellant is a sole employable recipient with one dependent child and joint custody of three children.
- The appellant receives financial assistance totaling \$1075.58 per month.
- The appellant's monthly shelter costs are \$900 rent, \$70 hydro, \$40 gas and \$35 phone for a total of \$1045.

The ministry was not in attendance at the hearing. After confirming the ministry had been notified, the hearing proceeded under section 86(b) of the EAR.

At the hearing the appellant told the panel his troubles began when he closed a small business he had in December 2013 that left him with a large gas and electric bill. In early 2014 he began to sell the assets of the company and pay off the debts he had related to the company. He confirms that he received approximately \$3460 in April and \$1963 in May 2014 in total income. He told the panel that in April and May he had to pay \$1000 to the bank, \$700 to the gas company, \$800 in groceries, \$400-\$500 on clothes and shoes for his children, an unspecified amount for other personal debts, and he paid a total of \$900 in rent. He added that in June he stopped paying his ICBC insurance of \$80 per month because he was running short of money. He said that his ex-wife has not provided any financial support for the children.

The appellant told the panel that when he found out that his CTB was reduced by \$800 he contacted the CTB office to have the correct amount reinstated. He said he expected the issue to be resolved

by the following month and he was going to use the money he received from CTB to clear up his rent arrears. He added that it would be very difficult for him to find a home large enough for him and his children for the same monthly rent. He is worried that if he is evicted he and his family will be homeless putting them in imminent danger.

The appellant states that he has no parents or relatives and therefore cannot get assistance from these sources.

PART F – Reasons for Panel Decision

The issue in this case is the reasonableness of the ministry's decision that the appellant does not qualify for a crisis supplement for shelter because his need does not meet the criteria set out in the EAR Section 59. The ministry determined while the reduction in CTB was unexpected; his rent expense was not unexpected. The ministry determined the appellant had the resources available to meet the need and if the ministry fails to provide him with the funds it will not pose imminent danger to him or his family nor will it result in the removal of his children under the Child, Family, and Community Act. The ministry also found that the amount requested by the appellant exceeded the allowable amount for shelter crisis supplement in the legislated schedules.

The relevant legislation is as follows:

Employment and Assistance Act section 4

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

Employment and Assistance Regulation (EAR) section 59

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:

(a) if for food, the maximum amount that may be provided in a calendar month is \$20 for each person in the family unit,

(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;

(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.

(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 income 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:

(a) fuel for heating;(b) fuel for cooking meals;(c) water;(d) hydro.

It is the ministry's position that the appellant's request for a crisis supplement does not meet the criteria as set out in EAR section 59 (1) requiring that the need for the supplement be unexpected, that there are no other resources available, and that the failure to meet the need would result in imminent danger to the health of the person/family unit or cause the removal of a child from the

home. The ministry argues that while the appellant's sudden reduction in CTB was unexpected, the appellant had the funds available to meet his shelter obligations. The ministry maintains that the appellant has not shown that he has explored other resources for money, there is no imminent danger to his health, and being evicted will not result in the removal of his children under the Child, Family, and Community Act.

It is the position of the appellant that because of his reduced child tax credit from \$1100 to \$298, he has not been able to pay his rent. He argues that he now owes \$2100 in unpaid rent and although his landlord has been lenient, he has been given an eviction notice.

Regarding the criteria that the funds be needed for an unexpected expense, the ministry determined the appellant's reduction in CTB was unexpected however his rent expense, and the resulting eviction notice, is not unexpected. The panel finds that the ministry was reasonable to determine the expense of rent was expected because the appellant has been paying rent to the same landlord each month for more than 2 years. The panel acknowledges reduction in CTB was unexpected however the EAR 59 (1)(a) does not include an unexpected reduction in income, rather, an unexpected expense or an item unexpectedly needed.

Regarding the ministry's determination that the appellant has resources available to pay his rent, the panel considered the appellant's testimony that it was April and May when he began to fall behind. The total that he received in April 2014 was \$3460 and in May he received \$1963 including funds he received from selling some of his belongings. He explained to the panel that he had several debts that he paid with that money which left him unable to fully pay his rent. The debts included \$1000 to his bank, \$700 for a gas bill, \$400-500 to buy new clothes and shoes for his children, \$800 for groceries, and he paid \$600 for May's rent and \$300 towards June's. He added that he stopped paying his ICBC auto insurance of \$80 per month in June. The appellant did not provide documentation to support these expenditures. The panel finds that the ministry was reasonable to determine that the appellant had the resources available to pay his rent but he chose to pay other debts.

Regarding the ministry's determination that the appellant does not face imminent danger to his or his family's health nor the prospect of the removal of his children under the Child, Family, and Community Act if he fails to obtain the funds the panel considered that the appellant is a single parent caring for 3 children under the age of 16. In the reconsideration decision the ministry writes that even though the appellant received an eviction notice, the minister was not satisfied that failure to provide the funds to pay his rent arrears will result in imminent danger to his or his family's health nor will it result in the removal of his children under the Child, Family, and Community Act. The ministry has not provided any reasons for this conclusion. The appellant argued that if he is evicted he may be homeless because finding a new home for a family his size, and within his budget, will be very difficult. The panel finds that although the ministry did not provide any arguments to the contrary, the ministry was reasonable in its determination. The panel acknowledges that the appellant will have difficulty finding appropriate accommodations; however given the amount of time from when he became behind on his rent, May 1st, he has had sufficient time to secure a new home to rent and prevent any danger to him and his family and to prevent the removal of his children.

The panel finds that the ministry's decision was a reasonable application of the legislation in the circumstances of the appellant and therefore confirms the ministry's decision.