

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) August 1, 2014 reconsideration decision denying the appellant's request for a crisis supplement for utilities, because she does not meet the legislative criterion of section 57(1)(a) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) as the item requested is not unexpectedly needed or an unexpected expense. [The date of the reconsideration decision is mistakenly entered as July 1, 2014 but from the context and from the entry "On August 1, 2014 the ministry completed its review of your Request for Reconsideration" it is clear that the date of the reconsideration decision is August 1, 2014]

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 July 3, 2014 the appellant attended the local ministry office and advised that her hydro had been disconnected. The ministry worker called BC Hydro and was informed that on this day the appellant owed \$1258.48 plus a reconnection fee of \$131.25.
- The appellant stated that she had previously dropped off a hydro disconnection notice, however there is no indication of this in her file.
- The appellant submitted a bill dated May 9, 2013 from the appellant's previous account, outlining a past due balance of \$372.78.
- This bill was from over a year ago, the balance is \$0 and the account is closed.
- Due to this ambiguous information the ministry contacted BC Hydro and was informed of the following:
 - The appellant's previous account was closed in December 2013 and there was an outstanding balance of \$216 that was transferred to the appellant's new account when she moved to her current address.
 - The appellant was set up with an Equal Payments Plan (EPP) of \$66 per month to which the ministry has been sending direct payments monthly on the appellant's behalf. The amount of the EPP is calculated based on the previous resident's usage.
 - The average usage of the appellant's family unit is \$175 per month. Therefore \$91 is being carried over each month as unpaid and outstanding plus the \$216 from her previous address that has not been paid.
 - Based on the outstanding balance of the appellant's account, her EPP was automatically cancelled in May 2014; therefore the accumulation of her usage became due at this time.
 - BC Hydro confirmed that the appellant is an online customer; therefore the appellant is emailed her monthly bill with her usage summary.
 - On June 4, 2014 the appellant was sent a final disconnection notice via mail.
 - On June 5, 2014, she was sent another final disconnection notice via email.
 - On July 1, 2014 she was contacted via telephone to inform her of a 24 hour notice to disconnect.
 - Her BC Hydro services were disconnected on July 3, 2014.
 - According to BC Hydro the appellant's balance of August 1, 2014 is \$1112.07 plus \$131.25 reconnection fee. Besides the monthly \$66 the ministry pays directly on the appellant's behalf, the appellant paid \$144 on July 23, 2014.

A BC Hydro bill dated May 9, 2013, issued the appellant's previous address. It states that

- \$372.78 are past due;
- a payment of \$229.20 was received on April 24, 2013.

With her request for reconsideration dated July 17, 2014 the appellant submitted a letter stating that

- She got a hydro bill for almost \$245 from her old address and took it to the ministry and made an appointment to come back.
- She can't remember the date of this appointment but she does remember that it was at 1pm.

- At this appointment the ministry worker took the hydro bill and said it was not a disconnection notice.
- When she got a second notice she ignored it because she had been at the ministry office not long ago.
- When she got up on July 3, 2014, she had no hydro.
- She called a 1-800 number and talked to the ministry.
- The appellant was taken to the ministry office by a health nurse [originally the appellant had only given a first name, but at the hearing the appellant clarified that this person was a health nurse]. They spoke with a ministry worker who went through everything explaining it and she explained what the package was and the appellant said okay.
- She gave them the hydro bill of just over \$244.
- The appellant stated that the office worker said she would deal with it and let her know.
- The next day she had no phone because her battery had died.
- She went to her sister's shop to call the ministry and found out she had been denied.
- According to the appellant the ministry worker said "she could send out some kind of package". The appellant said no, that would not help her now.
- Later the appellant went to the ministry office together with the health nurse [originally the appellant had only given the same first name as above, but at the hearing the appellant clarified that this person was the health nurse], got everything explained and said okay. The ministry worker told her the package would be ready for pick-up on July 10th.
- She called BC Hydro again and was told that the amount owing was not \$245 but over \$1200 plus \$130 reconnection.
- That was the first time the appellant knew anything other than the \$245.
- BC Hydro told her that if a ministry worker called and made the arrangements her hydro would be reconnected. So far hydro has not been reconnected.
- She has never received anything from hydro concerning her current account number.
- She doesn't do any bills through email.
- When she called hydro on July 9, 2014, using someone else's phone, she requested everything they sent her since October 15, 2013, that is when she took possession of her current place and when hydro was hooked up there. She was told they don't send out the same thing twice. She was told a supervisor would call her but no supervisor called.
- When her sister talked to them on July 10 she was told to expect copies of everything in around 10 business days.
- The appellant had the ministry change hydro from \$66 to \$144.

An undated letter from a friend stating that

- He has been staying with the appellant since January 6th.
- He stayed over from 10pm to 3pm from January 6 to May 22.
- He was always sitting on the couch by the door so he always got the mail for the appellant every time.
- Not once during his stay has he given a hydro letter to the appellant.
- The appellant has not received that letter.
- He has a good memory and he guarantees the appellant has not received this letter.

The appellant's Notice of Appeal dated August 11, 2014 (received on August 12, 2014).

At the hearing the appellant submitted 2 documents:

- 1) Duplicate Invoices from BC Hydro dated July 14, 2014. These include the bills from November 8, 2014 to May 9, 2014. The May 9, 2014 bill states that the equal payment plan of \$66 was cancelled with a plan balance of \$977.90. \$1390.48 are past due.
- 2) An undated doctor's letter stating that the appellant is under his care since 2012. She is diagnosed with Major Depressive Disorder and Panic Disorder and Agoraphobia.

The ministry did not object to items 1) and 2) being admitted as evidence.

At the hearing the appellant stated that she forgets things. She never received a disconnection notice. When BC Hydro set up her current account she requested to get her bills in the mail, not via email. She has no computer, she had no internet for months, her son has no computer, she cannot go to the library to use their computer. She has an email account but doesn't use it anymore. She cannot remember the password. Her hydro is still disconnected. On Friday June 27th she received a disconnection notice via text message from BC Hydro.

The ministry relied on its reconsideration decision and added the following information: In order for the ministry to make a payment to BC Hydro on the appellant's behalf on July 23, 2014 the likely cut-off date for the appellant to make the arrangement with the ministry would have been July 18, 2014. The \$144 payment to BC Hydro on July 23, 2014 appears to be the result of this arrangement.

The ministry stated further that it is unlikely that a disconnection notice is lost; whenever it is presented – and this happens frequently – a red flag is immediately attached to the client's file and a digital copy made.

Pursuant to section 22(4) of the Employment and Assistance Act the panel admits BC Hydro's Duplicate Invoices and the appellant's testimony as being in support of the information that was before the ministry at reconsideration. The Duplicate Invoices and the appellant's oral statements provide additional details and background regarding the appellant's request for a crisis supplement for hydro. The panel does not admit the doctor's letter because it is not in support of the information that was before the ministry at reconsideration; there was no information on the doctor's diagnoses 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 utilities in accordance with section 57(1)(a) of the EAPWDR; specifically, did the ministry reasonably determine that the need to pay for hydro was not unexpected?

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 disconnection of her hydro was unexpected: she had no knowledge that there was any outstanding amount on her hydro bill because she has never received any information from BC Hydro, and she never received a disconnection notice. She does not pay any bills through email, and has not received any mail from BC Hydro before May 22, 2014. Had she gotten any notices from BC Hydro she would have dealt with it immediately. She cannot deal with something she doesn't know.

The ministry argues that BC Hydro services are not an unexpected expense or an item that is unexpectedly needed; they are an ongoing expense. It is not unexpected to have a past due balance if the outstanding balance from a previous address was not paid; it is also not unexpected to have an outstanding balance if the appellant uses more than the usage that is set out in her EPP. The appellant had agreed to be notified of her bill via email using an online account which provides a breakdown of her usage – she was also sent multiple notifications via phone, email and physical mail indicating that she has an outstanding balance which is resulting in disconnection.

As an online customer the appellant would have been informed online of the past due balance and over usage of the amount on her EPP. If the appellant does not choose to view her account it is not unexpected that she has an outstanding balance of over usage. While the appellant states that she neither receives bills via email nor through physical mail these are the only 2 options BC Hydro provides.

Panel Decision

The panel finds there is conflicting evidence on whether the appellant requested her hydro bills to be sent via email or physical mail. The appellant claims that she does not receive her bills via email because she had requested them to be sent by physical mail; as she did not receive any hydro bills in the physical mail she had no knowledge of any outstanding hydro balance. However, the panel finds that there are inconsistencies in her statements, and given these inconsistencies the panel gives greater weight to the ministry's evidence, specifically its record of a phone conversation with BC Hydro. This record indicates that the appellant was an online customer and received her bills via email, and that BC Hydro issued notifications via phone, email and physical mail informing the appellant that as a result of her outstanding balance her hydro would be disconnected.

For these reasons the panel finds the ministry was reasonable in determining that the appellant's past due hydro amount and subsequent disconnection was not unexpected pursuant to section 57 (1)(a) EAR; 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 utilities. The ministry's decision is confirmed.