

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (the “ministry”) dated November 5, 2014 which held that the appellant was not eligible for a crisis supplement for natural gas because the ministry determined that the appellant did not meet the eligibility requirements set out in section 59 of the Employment and Assistance Regulation (EAR). Specifically, the ministry found that the appellant did not have the resources to meet the expense, and that not meeting the expense for reconnecting the appellant’s natural gas might result in imminent danger to her physical health, but held that the appellant did not have an unexpected expense for natural gas as required by section 59(1)(a) of the EAR.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR) section 59

PART E – Summary of Facts

The documentary evidence before the ministry at reconsideration included the following:

1. A Medical Report – Persons with Persistent Multiple Barriers dated July 18, 2014 that was completed by a physician and identifies the appellant's medical conditions as Fibromyalgia (onset February 1, 2007) and General Anxiety Disorder (February 1, 2007).
2. A letter dated September 12, 2014 from a natural gas supplier to the appellant confirming a payment arrangement made by the appellant to pay her outstanding balance. The schedule called for payments of \$100 on each of September 15 and 16, 2014, and a final payment of \$175.99 on October 1, 2014.
3. A bank statement dated September 12, 2014 showing a payment of \$100 to a natural gas supplier
4. A bank statement dated September 16, 2014 showing a payment of \$100 to a natural gas supplier.
5. A bill from a natural gas supplier to the appellant dated October 15, 2014. The bill states that the previous balance was \$1759.76 and with a late payment charge of \$21.60 results in a balance due immediately of \$1781.36. Additional charges result in a balance of \$1816.03 due on November 6, 2014.
6. A Notice of Disconnection dated October 20, 2014 sent by a natural gas supplier to the appellant advising that payment of \$542.11 was required before October 31, 2014 to avoid disconnection.
7. The appellant's *Request for Reconsideration* dated October 28, 2014 in which the appellant provides the following reason for requesting reconsideration:
"I paid 200.00 dollars towards bill 100.00 on Sept 12/14 100.00 on Sept 16/14. I didn't know Welfare could help with this until I was told by Avicate (sic) on phone. So that is what I did also tried other resources. I have a old bill from (previous address) from Oct/13 when I got sick couldn't pay rent was kicked out. I have fibromyalgia that has gotten worse but I work 2 jobs. I'm in (specified accommodation) trying to get on my feet. I have 2 children and transitioning into coming to stay with me but having no heat or hot water makes it hard for them to stay with me. So I will be on street again. Social Services is to help not split families apart. And when I'm sick I'm down for up to 3 months which means no money no food no shelter. So how is that helping me they shut my gas off for 175.99 then said 542.11 now 1,876.03. It's too confusing for I spoke with 3 different people. I'm also trying to do better and paying to \$200.00 is what I could do have to pay rent first. And my children come to stay but now no heat no hot water and I'm sick. I have credit on Hydro bill. Had to get my car fix \$400.00 so I can go to work no buses go to my jobs in (community) and out to (workplace) where I work and because of my illness I can not work a full time job don't have any money for my meds. My children are first was in a bad relationship with ex husband he doesn't help at all when kick out of house all belongings were stolen from street all my children's things, family pictures. Welfare did not help with anything to help me get movers nothing. I did not ask to get sick and I'm doing what I can and I have been doing good until this bill which will put my children and I on the street and them with there dad who is a heavy drinker and me not seeing my children. They have been with me since birth until my health went down hill from working 3 jobs back then. If I have to pay back the money that's fine I will. But I am a mother and have a right to have my children in a home with heat and hot water. I don't drink or do drugs. I work 2 jobs. I need the help. Please this is my family. I was also denied People Multi berries. Also my memory isn't that good because of the illness. But I'm trying. I have no family to help me. Thank you."

Prior to the hearing the appellant submitted:

- A bank statement dated November 14, 2014 showing payments of \$300 and \$242.11 to a natural gas supplier. A handwritten comment on the statement reads: "*P.S. Now short on rent*".
- a 5 page submission which included a handwritten note dated November 28, 2014 which read "To Whom it May Concern – We (name of appellant's younger daughter) and (name of appellant's son) spend 40% to 50% of time with our Mom (name of appellant). Signed by the appellant's younger daughter. Also included were 2 page *Student Information Verification Forms* for the appellant's younger daughter and son. In both of these forms it was indicated that the children live with their mother and not with their father. In addition, both forms listed the comment "Both parents share custody – children live with their mother" under Additional Information. Neither form had a signature under the statement "I certify that the information on this form is correct".

At the hearing the appellant explained that she was evicted from her previous residence after becoming sick and being unable to work. She moved into her present accommodation in August 2014 and arranged for service from a natural gas supplier. She stated that the large gas bill she received was unexpected because she was anticipating that her natural gas bills would be modest in her new accommodation, and she had an unpaid balance from her previous gas service supplier which she thought was fairly small (about \$800). Accordingly, she was surprised and confused when she was advised by her natural gas supplier that her service was being disconnected and that she had an outstanding balance of \$1759.76 owing. She made a payment arrangement with her natural gas supplier to pay installments of \$100 on September 15, 2014 and September 16, 2014, and an additional payment of \$175.99 on October 1, 2014. She confirmed at the hearing that she did make the first two payments of \$100 but was unable to make the October 1st payment of \$175.99 because she needed the money to pay her rent. She stated that she received a letter advising her that her gas service would be discontinued on October 31, 2014 but the service had already been disconnected before the letter was received. She spoke by telephone with a manager at the natural gas supplier and was able to work out a repayment schedule which allowed her natural gas service to be restored. She made payments of \$300 and \$242.11 to the natural gas supplier on November 14, 2014 as required in the repayment agreement. Now that her natural gas service is restored her 2 younger children are living with her some of the time. She needs the crisis supplement because she has no money left after paying for her recent move, her truck repairs, and the cost of restoring her natural gas service. She relies on the local food bank.

The ministry explained that there are three requirements for a recipient of income assistance to qualify for a crisis supplement and all three must be met. The ministry has determined that the appellant has met two of those requirements: she does not have the resources to meet the expense, and not meeting the expense for reconnecting the appellant's natural gas might result in imminent danger to her physical health, but the ministry held that the appellant did not have an unexpected expense for natural gas as required by section 59(1)(a) of the EAR. The ministry noted that the appellant had stated that she was aware that she had an outstanding balance owing to her natural gas provider when she moved in to her present accommodation. The ministry noted that the appellant had started to work with the natural gas provider starting in August to make repayment arrangements. The ministry explained that an unexpected cost might be incurred if one moved to accommodation which had an unexpectedly greater cost – such as might occur if the accommodation had only single pane glass, or if one had an unexpected failure of a water tank. But in the case of the appellant the

ministry noted that she knew about the outstanding balance owed and had arranged a planned repayment schedule which was agreed to but not satisfied.

The ministry indicated that it had no objection to the admission of the bank statement dated November 14, 2014 showing payments of \$300 and \$242.11 to a natural gas supplier. But the ministry did object to the admission of the 5 page submission which included a handwritten note dated November 28, 2014 and the 2 page *Student Information Verification Forms* for the appellant's younger daughter and son. The ministry's objection was based on the argument that the submission was not relevant to the appeal.

The panel admitted the oral testimony as being in support of the information before the ministry at reconsideration, in accordance with section 22(4) of the Employment Assistance Act (EAA). In addition, the panel admitted the 5 page submission which included a handwritten note dated November 28, 2014 and the 2 page *Student Information Verification Forms* for each of the appellant's younger daughter and son as being in support of the information before the ministry at reconsideration, in accordance with section 22(4) of the Employment Assistance Act (EAA) because it is in support of the appellant's claim that the appellant's younger children live with her some of the time. The panel did not admit the bank statement dated November 14, 2014 as it was not in support of the information before the ministry at reconsideration.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry reasonably denied the appellant a crisis supplement for natural gas based upon section 59(1)(a) because utility costs for natural gas are not an unexpected expense. Specifically, the issue is whether the ministry's decision is reasonably supported by the evidence, or is a reasonable application of the legislation in the circumstances of the appellant.

The relevant legislation is the following:

From the EAR:

Crisis supplement

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*.

The appellant's position is that the amount of the balance owed to the natural gas supplier was unexpected. She had understood that the outstanding balance from the appellant's previous residence was only about \$800 and had expected that the costs of this service in her present accommodation would be modest. But once reconnection costs, interest payments, and other charges were included, the balance that the appellant was asked to pay was far more than she had expected, and far more than she could afford to pay. She stated that she was confused by the amount required by the natural gas supplier and how the amount had been calculated.

The ministry's position is that utility costs such as natural gas service are not unexpected expenditures. Moreover, the ministry argues that the appellant was aware that she had an outstanding balance owing to her natural gas provider from her previous residence. Finally, the ministry noted that the appellant had worked out a repayment arrangement with the natural gas provider and failed to fulfill the agreement. Accordingly, the ministry argued that the appellant was well aware of the need to pay for the natural gas service. The ministry therefore determined that the appellant did not have an unexpected expense for natural gas service and was not eligible for a crisis supplement under section 59 of the EAR.

Panel Decision

The panel noted that the appellant admitted that she was aware that she had an outstanding balance owing to her natural gas provider. She stated that it was the size of the bill that was unexpected not the bill itself. Moreover, the panel noted that the appellant had entered into an agreement with her natural gas provider for a repayment schedule but she had failed to make the third and final payment of 175.99 on October 1, 2014. Accordingly, the panel concluded that the ministry had reasonably determined that the bill from the natural gas provider was not an unexpected expense.

Having reviewed and considered all of the evidence and the relevant legislation, the panel finds that

the ministry's decision that the appellant was not eligible for a crisis supplement was a reasonable application of the legislation in the circumstances of the appellant.

The panel therefore confirms the ministry decision