

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (Ministry) reconsideration decision dated October 9, 2014 which held that the Appellant is not eligible for a crisis supplement for delinquent property taxes pursuant to section 59 of the Employment and Assistance Regulation (EAR). The Ministry accepted that the Appellant has no financial resources to pay his share of the delinquent tax bill but found that two other criteria in section 59(1) were not met:

1. The person requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed [EAR subsection 59(1)(a)]; and
2. Failure to meet the expense or obtain the item will result in imminent danger to the physical health of any person in the family unit [EAR subsection 59(1)(b)(i)].

PART D – Relevant Legislation

Employment and Assistance Act – EAA - section 4
Employment and Assistance Regulation – EAR – section 59

PART E – Summary of Facts

The evidence before the Ministry at reconsideration included:

- A Request for Reconsideration signed by the Appellant on September 29, 2014 in which he requested “more assistance for property taxes”. He indicated that he would accept less than \$1,054.75 (the amount of his delinquent taxes) in extra assistance but would like his shelter amount raised to cover some of the costs. He added that he is having a hard time paying all his bills.
- A fax to the Ministry from the Appellant dated September 18, 2014 in which he requests extra assistance for his property taxes. He owes \$1,054.75 for the delinquent portion.
- A letter addressed to the Appellant and the co-owner of the property from the municipality dated August 14, 2014 in which the municipality stated that properties with delinquent taxes are to be sold at an annual tax sale. The Appellant’s property had been listed for public auction to be held on September 29, 2014. As of August 14, 2014 the delinquent tax amount was \$2,106.38 plus \$3.12 interest.

At the hearing, the Appellant confirmed that his house had not been sold at public auction because the delinquent portion of the tax bill has been paid; i.e., the amount required to prevent the municipality from following through with the tax sale. He paid his share of the delinquent portion in September 2014, and the co-owner paid their share. In response to questions from the Ministry, the Appellant confirmed that he had changed his address on his driver’s license as recently as October 2014 but stated that he is back living in his house and has recent bills for hydro and gas with the house’s address. He has no home insurance because it didn’t get renewed; and he has no mortgage and has not thought of taking out a loan against the equity. He does not want to re-allocate his shelter amount and have the Ministry send a payment for property taxes directly to the municipality because he is trying to make bigger payments on his own.

In response to questions from the panel, the Appellant confirmed that he had received the original property tax bill, and a notice regarding the delinquent amount after that. The delinquent taxes are caught up, but he still owes his share of the current amount plus arrears and interest.

The panel finds that the Appellant’s testimony relates to the scheduled tax sale of the property, shelter expenses, and arrangements for paying the property tax which are all part of the Ministry’s background information. The panel therefore admits the testimony under section 22(4)(b) of the *EAA* as evidence in support of the information and records that were before the Ministry at the time the decision being appealed was made.

At the hearing, the Ministry summarized its reconsideration decision and did not introduce any new evidence. The Ministry noted that the Appellant is a sole recipient of income assistance and has been in receipt of assistance since June 2014. The total taxes owing are \$6,248.03 and the delinquent portion is \$2,106.38 plus \$3.12 interest. As the Appellant is a half owner of the property, his share of the delinquent portion plus interest is \$1,054.75. A portion of his shelter allowance was allocated to property taxes (\$200.00 per month as stated by the Ministry at the hearing) and the Appellant had indicated that he was applying that amount to the taxes every month.

The Ministry noted that the Appellant is currently receiving the maximum shelter allowance for a sole recipient (\$375.00 per month). His shelter costs include property taxes, hydro, gas, phone, and home insurance. He also has internet which is not an allowable shelter cost. His shelter allowance was \$240.49 per month and was recently increased to \$375.00 effective October 2014. In response to a question from the panel, the Ministry stated that the Appellant was initially not receiving the maximum shelter allowance because the Ministry needed updated bills before they could increase it to \$375.00.

The Ministry's background information indicated that the Appellant contacted the Ministry on September 18th regarding his delinquent taxes and stated that they had been delinquent for awhile and he was not sure if they had gone up. The Ministry spoke to the Appellant on September 22nd and advised him that property tax is not something the Ministry provides funds for, but once the Appellant set up a payment plan with the municipality, the Ministry could make direct payments on the Appellant's behalf.



PART F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry's reconsideration decision of May 5, 2014, which held that the Appellant is not eligible for a crisis supplement for delinquent property taxes pursuant to section 59 of the EAR is reasonably supported by the evidence or a reasonable application of the applicable enactment in the circumstances of the Appellant. The Ministry found that the information provided did not establish an unexpected need for the crisis supplement and there was no evidence that failure to pay the delinquent taxes would result in imminent danger to the Appellant's physical health.

The following sections of the legislation apply to crisis supplements:

EAA Income assistance and supplements:

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

EAR Crisis supplement:

Pursuant to section 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.

Section 4 of the *EAA* gives the minister authority to provide a crisis supplement to a family unit when all eligibility criteria are met. The panel notes the Ministry's information that the Appellant is eligible for income assistance. He therefore meets that requirement under section 59(1) of the *EAR*. In its reconsideration decision, the Ministry explained that it can assist with property taxes as a crisis supplement "only if the request meets the crisis supplement legislation. Unexpected need, no resources, and danger to health or removal of a child by MCFD if not assisted." In the Appellant's circumstances, the Ministry accepted that he meets the criterion of "no resources available" to meet the expense under subsection 59(1)(a) of the *EAR*. The two other criteria in subsections 59(1)(a), and 59(1)(b)(i) must also be satisfied. These are discussed as follows:

Unexpected expense or item unexpectedly needed, *EAR* subsection 59(1)(a):

Appellant's position

In his Notice of Appeal dated October 16, 2014 the Appellant argued that there should be an allowance for taxes because "if you can't pay your delinquent taxes your house will get sold." He further argued that all of your taxes have to be up to date before you can make the (regular monthly) payments. In his Request for Reconsideration, the Appellant argued that it is unfair not to be considered for extra assistance when he is having a hard time paying his bills. He argued that he should be given some leeway and section (4)(b) (of *EAR* section 59) is close to his request for some help with all around expenses.

At the hearing, the Appellant added that the legislation should be changed to allow more for taxes and fuel, "and not just say too bad and put people out in the cold." He argued that if the house was being sold he "should be able to get some money somewhere." He argued that the amount he gets for shelter doesn't seem like enough and should be increased for the cost of living and inflation.

Ministry's position

In the reconsideration decision, the Ministry argued that the Appellant's delinquent property taxes should have been paid to the municipality "at least a year ago"; payment of property taxes is not unexpected; and the Appellant has "not presented anything unexpected that prevented (him) from keeping up with (his) taxes".

Panel's decision

The panel finds that the Ministry reasonably determined that the Appellant's need for the crisis supplement was not to meet an unexpected expense. The evidence is that the Appellant requested the crisis supplement on September 18th, approximately one week before the property was scheduled to be sold at public auction. He confirmed that he had received both the original tax bill and a notice regarding the delinquent amount. The municipality's letter of August 14th indicated that the delinquent amount of \$2,106.38 was greater than the current taxes (\$1,790.17). A penalty of \$179.02 and interest of \$77.70 had already been applied and were included in the total amount owing.



This information indicates that the tax arrears had been accumulating for some time. The Ministry reported at the hearing that the municipality was charging interest of \$0.35 per day. While the Appellant argued that there should be extra assistance available to pay his tax bill, he did not submit that the expense was unexpected. He argued that the amount he gets for shelter is too low and he is having a hard time paying his bills, and the legislation should be changed to provide more for shelter; however, these submissions do not establish that his tax bill was unexpected.

The Appellant also submitted that subsection 59(4)(b) of the EAR is close to his request for some help with his expenses. However, this section addresses the maximum amount of a crisis supplement for clients who are eligible for the supplement. The only amount the Ministry has found the Appellant eligible for with regard to his shelter expenses is the maximum shelter allowance of \$375.00 per month which he is already receiving. The panel finds that the Ministry was therefore reasonable in determining that the "unexpected expense" criterion under subsection 59(1)(a) of the EAR was not met.

Imminent danger to physical health, EAR subsection 59(1)(b)(i):

Appellant's position

In his Notice of Appeal, the Appellant argued there would be imminent danger to his health because he would have to rent a place if his house were sold. At the hearing, he re-stated that he "would be out renting somewhere if the house gets sold."

Ministry's position

In its reconsideration decision, the Ministry argued that not enough information has been provided to establish that failure to pay his share of the property taxes will result in imminent danger to his physical health.

Panel's decision

Subsection 59(1)(b)(i) of the EAR requires there to be a direct link between not obtaining the crisis supplement for the requested item and imminent danger to physical health. The Appellant's argument that he would have to rent a place if his house were sold does not explain how his physical health would be affected, let alone be in imminent danger. The panel notes that the Appellant did not provide any information that directly relates to his physical health. The Ministry could therefore not be satisfied that the Appellant will face imminent danger if he did not receive a crisis supplement to pay his delinquent property taxes. The panel finds that the Ministry reasonably determined that there is not enough information to establish that failure to pay his share of the property taxes will result in imminent danger to the Appellant's physical health as required under subsection 59(1)(b)(i) of the EAR.

Conclusion

The panel finds that the Ministry's reconsideration decision finding the Appellant ineligible for a crisis supplement for his delinquent property taxes was reasonably supported by the evidence. The panel confirms the Ministry's reconsideration decision.