

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “Ministry”) reconsideration decision dated February 11, 2015 which held that the Appellant was denied a crisis supplement to pay his outstanding hydro bill as the outstanding hydro bill was not an unexpected expense and the Appellant had the resources to pay the outstanding hydro bill pursuant section 57(1)(a) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR).

PART D – Relevant Legislation

EAPWDR, section 57(1)(a)(b)

PART E – Summary of Facts

The Ministry had in attendance a Ministry observer and with the approval of the Appellant the hearing proceeded.

The Appellant had in attendance an Advocate and with the approval of the parties the hearing proceeded.

The evidence before the Ministry at reconsideration included the following:

1. Laboratory requisition dated February 2, 2015 prepared on behalf of the Appellant with the Hematology Panel and INR boxes checked off; and
2. Hydro bill dated January 2, 2015 in the name of the Appellant showing a past due account in the amount of \$541.60.

Employment and Assistance Request for Reconsideration dated February 2, 2015, the Appellant stated the following:

1. The Appellant had worked out a payment plan with the hydro company and paid \$55.00 per month;
2. he notified the hydro company of his move;
3. he believed the extra money on his cheque was on account of the lower rent in his new residence;
4. he received a disconnection notice each month and a bill;
5. he did not pay attention to the bill and will in the future;
6. he has lost 35 pounds, developed bronchitis; and his hepatitis B has (illegible);
7. he needs to cook; and
8. his fridge and his hygiene are affected without hydro and he is depressed as a result.

Employment and Assistance Reconsideration Decision dated February 11, 2015, the Ministry stated the following:

1. September 8, 2015 the Appellant notified the Ministry that he was moving October 1, 2015. The Ministry advised that the Appellant continued direct payments for hydro could not be continued until he provided verification of the new equal payment amount and the account number for the new residence; and
2. January 7, 2015 the Appellant contacted the Ministry to advise that his hydro had been disconnected.

Employment and Assistance Request for Reconsideration dated February 3, 2015, a hand written note with a stamp from the infection disease center author unknown stated the following:

1. The Appellant made an honest mistake;
2. he has HIV infection and the absence of hydro poses a real threat to his health and life; and
3. he is losing weight without access to cooking facilities and this must be remedied immediately.

Notice of Appeal dated February 25, 2015, the Appellant stated the following:

1. The Appellant made an honest mistake and he honestly thought he only had to change his

- address not set up a new account;
- 2. his health has deteriorated since his hydro has been off;
- 3. he should have paid more attention to his hydro bill and will in the future; and
- 4. he cannot afford to pay it on his own and he feels this is becoming a life or death situation.

The Appellant and the Ministry's oral testimony supported the evidence on appeal. No new evidence was introduced at the hearing and they relied exclusively on the Reconsideration Decision.

PART F – Reasons for Panel Decision

The issue is whether the Ministry's decision to deny the Appellant a crisis supplement to pay an outstanding hydro bills for the months of October, November and December 2014 for failing to meet the legislative requirements of section 57(1)(a) of the EAPWDR is a reasonable application of the legislation in the circumstances of the Appellant or is a reasonably supported by the evidence.

Section 57(1)(a) of the EAPWDR gives authority to the Ministry to provide a crisis supplement to an individual who is eligible for disability assistance or hardship assistance providing the person requires the supplement to meet an unexpected expense or an item unexpectedly needed and they are unable to meet the expense or obtain the item because there are no resources available to them pursuant to subsection.

Section 57(1)(b) also requires the Ministry to consider whether the 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 or result in the removal of a child.

Section 57(1)(a)(b) of the regulation has been reproduced as follows:

(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

(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 Ministry found that the failure to pay the outstanding hydro bill would result in imminent danger to the Appellant's health thereby satisfying the requirements of section 57(1)(b)(i), but found that the outstanding hydro bills cannot be characterized as an unexpected cost and that the Appellant did have the resources to meet the expense pursuant to section 57(1)(a).

Unexpected Expense

The Ministry argued that the Appellant's outstanding hydro bill cannot be characterized as an unexpected expense as the Appellant knew his hydro bill was not being paid by the Ministry. The Ministry relied on the fact that the Appellant received monthly late payment and disconnection notices prior to his hydro being cut off.

The Appellant argued that the outstanding hydro bill was an unexpected cost as he believed the

Ministry was paying his hydro account each month as they had done in the previous months. The Appellant argued that he did receive the outstanding bills and disconnection notices but he disregarded them explaining that the disconnection notice stated that if the bill was already paid to disregard the notice.

The panel finds the Ministry reasonably determined that an outstanding hydro bill cannot be characterized as an unexpected expense. There were many factors that would suggest that the Appellant's outstanding hydro bill was not an unexpected expense and that he knew or ought to have known that his hydro bill was not being paid by the Ministry.

Late Payment and Disconnection Notices

The Appellant confirmed that he received the late payment and disconnection notices immediately after his move although he could not be certain if he received two or three individual notices. The Appellant argued that while he admits receiving the notices he disregarded them on account of the notation on the disconnection notice stating to disregard the notice if the account was paid.

While it's uncertain whether the Appellant received two or three notices and irrespective of the notation on the notice advising the recipient to disregard the notice if paid, the receipt of a second late payment and disconnection notice should have immediately alerted the Appellant that at a minimum there was a *possibility* that his hydro bill was not being paid by the Ministry and should have triggered an inquiry to the Ministry or to the hydro company at that point. This is particularly true in light of the fact that the amount that was shown outstanding on the first late payment notice would have approximately doubled or increased on the second notice.

Increase in Monthly Shelter Allowance

The Appellant also confirmed that he simultaneously received an increase of his monthly shelter allowance once he moved. The Appellant gave evidence that he thought that the increase was on account of the difference of rent paid in his former residence which was higher than his new residence and that admits he did not confirm this with the Ministry.

The fact that the Appellant experienced an increase in his shelter allowance does not in itself suggest that he knew the Ministry was no longer deducting this amount from his allowance and paying for it on his behalf, however, taken into consideration that the Appellant moved to a new residence *and* simultaneously experienced an increase in allowance *and* began receiving late payment notices and disconnection notices would suggest that the Appellant knew or ought to have known that the hydro was not being paid by the Ministry and should have looked into this matter with either the Ministry or the hydro company.

New Account and Payment Information

There was also evidence presented by the Ministry the Appellant was informed that in order for the direct payment option to continue the Ministry would require a new hydro account number and the new monthly hydro amount in order to continue direct payments.

While the Appellant did not deny that he may have been requested by the Ministry to provide this information to continue the direct payment option, he claimed that he could not recall such a conversation largely due to his brain injury and inability to recall certain facts.

Regardless if the Appellant recalls the conversation with the Ministry the Appellant should have

known that that the Ministry would require the updated information in order to pay new hydro account at a new residence because he has moved on at least one other occasion and had to report all changes to the Ministry.

No Resources Available

The Ministry additionally found that the Appellant *had* the resources to pay the hydro bill each month in the form of his shelter allowance but he chose not use the portion of his shelter allowance that was intended to pay his utilities for his hydro and did not satisfy section 57(1)(a) in its entirety.

The Appellant argued that he simply does not have extra money to pay for the outstanding hydro bill.

The panel finds the Ministry reasonably determined the Appellant had the resources to adequately pay for his monthly hydro bill but did not take the necessary measures to ensure his monthly hydro bills were being paid.

The shelter allowance is to be applied on account of expenses such as his hydro and this was not done by the Appellant. Whether or not the oversight of payment of his hydro bill was intentional the Appellant cannot rely on an argument that he spent the money elsewhere as he *did* have the funds readily available to pay his hydro for the relevant months but the money was not used for this purpose of paying his hydro.

The panel therefore finds the Ministry's determination that the Appellant be denied a crisis supplement for the payment of his hydro account was reasonably supported by the evidence and confirms the decision.