

PART C – Decision under Appeal

The Ministry of Social Development and Social Innovation's (the ministry) reconsideration decision dated 29 December 2014 determined that the appellant was not eligible for a crisis supplement to pay his November 2014 rent. The Ministry stated that the appellant did not meet two of the three conditions for eligibility for a crisis supplement in the EAPWDR, sections 57(1)(a) and (b); as the expense could not be considered unexpected; and the appellant did not face immediate homelessness and hence an imminent threat to physical health. The Ministry accepted that the appellant met the remaining condition: lack of resources for the expense.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 57.
Employment and Assistance Act (EAA), section 19.
Administrative Tribunals Act (ATA), section 44.

PART E – Summary of Facts

The following evidence was before the ministry at the time of reconsideration:

- The appellant receives disability assistance as a sole recipient.
- Eviction notice from the landlord dated November 1 2014 giving 1 month notice to end tenancy for cause, effective 1 December 2014. The cause cited was “Rental units must be vacated to comply with a government order.”
- Eviction notice from the landlord dated November 1 2014 giving 1 month notice to end tenancy for cause, effective 15 December 2014. The cause cited was “Rental units must be vacated to comply with a government order.”
- Receipts from a bank, a financial institution and a store showing payments of various bills to a total of \$766.00 in October 2014.
- A memo from the appellant’s landlord dated 5 November 2014 stating that the appellant had not paid rent for November 2014.
- An undated, unsigned note headed “Reasons for Requesting Reconsideration” stating that the appellant is in imminent danger of homelessness, and that the appellant had disputed the Notice to End Tenancy with a hearing set for 15 December 2014. The note requested extension of the timelines for reconsideration.
- A signed letter from the appellant’s physician, dated 5 December 2014 stating that the appellant suffers from a number of conditions and is wheelchair bound with challenges to mobility, and that he would be at significant risk if evicted.
- Notes from the ministry describing a conversation between the appellant and a ministry worker on 3 November 2014 where the appellant stated that he could not pay his November rent due to unexpected expenses he had paid, and that he had received a notice to vacate. The notes also stated that the ministry worker had contacted the appellant’s landlord, who stated that the appellant would have to move on 1 December 2014 regardless of whether rent was paid as the municipal government had ordered that two tenants from the rental building must move out.

The Ministry did not provide additional evidence for the hearing.

In the notice of appeal the appellant stated that the ministry’s decisions were not in compliance with law, policy and the Charter of Rights and Freedoms.

For the hearing the appellant provided a written statement of argument which is described in Part F.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's determination that the appellant was not eligible for a crisis supplement because he did not meet two of the three conditions for eligibility for a crisis supplement in the EAPWDR, sections 57(1)(a) and (b); as the expense could not be considered unexpected; and the appellant did not face immediate homelessness and hence an imminent threat to physical health was either a reasonable application of the EAPWDR or reasonably supported by the evidence.

Relevant legislation:

EAPWDR Section 57 provides the following:

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.

(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, and

(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 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:

(a) fuel for heating;

(b) fuel for cooking meals;

(c) water;

(d) hydro.

EAPWDR Schedule A - Disability Assistance Rates

4 (2) The monthly shelter allowance for a family unit to which section 14.2 of the Act does not apply is the smaller of (B.C. Reg. 73/2010)

(a) the family unit's actual shelter costs, and

the smaller of the appellant's actual shelter cost (\$525) or the amount set out in EAPWDR Schedule A 4(2) (\$375).

The panel finds that the ministry's determination that rental expenses for November 2014 were not unexpected was reasonable because the appellant was in an ongoing rental situation and for the month of November was continuing to occupy the same premises. Hence, monthly rental for November would reasonably be expected to be an expense.

The panel finds that the ministry's determination at reconsideration that the appellant did not face imminent danger to his physical health from failure to meet the expense was reasonable because the date at which the appellant would have to vacate his premises was unclear, and in any event would be at some point after December 15th, and because the eviction notice was not for non-payment of rent.

The panel therefore finds that the ministry's decision to deny the application for crisis benefits was a reasonable application of the applicable enactment in the circumstances of the appellant, and was reasonably supported by the evidence.