

PART C – Decision under Appeal

The Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated 20 February 2015 determined that the appellant was not eligible for a third security deposit under s. 58 of the Employment and Assistance Regulation because:

- Both previous security deposits had not been repaid,
- The appellant was not separating from an abusive spouse,
- The family unit's rented residence had not been sold or demolished and no notice to vacate had been given,
- The family unit's rented residence had not been condemned or
- The family unit was not homeless or at imminent risk of being homeless.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR), s. 58.

PART E – Summary of Facts

The ministry and the appellant were not in attendance at the hearing. After confirming that they were notified, the hearing proceeded under s. 86(b) of the EAR.

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

- The appellant is a single parent recipient of income assistance.
- On 15 March 2013 the ministry provided a security deposit to the appellant in the amount of \$450 for rental accommodations. The Appellant repaid \$360 to the ministry and \$90 is still owed.
- On 27 January 2014, the ministry provided a second security deposit to the appellant in the amount of \$475 for new rental accommodations and the full amount has not been repaid.
- A Shelter Information form dated 20 December 2014 signed by the landlord indicated that the appellant intended to rent new accommodations as of 1 January 2015 for a rental amount of \$850 per month plus a security deposit of \$425 that was required.
- On 22 December 2014, the appellant submitted to the ministry a request for a third security deposit of \$425 for her new rental accommodations.
- In her request for reconsideration dated 9 February 2015, the appellant indicated that her previous landlord did not give her the security deposit back and told her to move out from that residence. She stated the new landlord who is also her daughter's father requested a damage deposit and she did not have the money to pay it.

In her Notice of Appeal dated 3 March 2015, the appellant repeated that her new landlord wanted a damage deposit and that her old landlord had not given her the full damage deposit back.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's determination that the appellant was not eligible for a third security deposit under s. 58 of the EAR because:

- Both previous security deposits had not been repaid,
 - The appellant was not separating from an abusive spouse,
 - The family unit's rented residence had not been sold or demolished and no notice to vacate had been given,
 - The family unit's rented residence had not been condemned or
 - The family unit was not homeless or at imminent risk of being homeless,
- was either a reasonable application of the legislation or reasonably supported by the evidence.

The applicable legislation is s. 58 of the EAR that states:

58 (1) In this section:

“cooperative association” means a cooperative association as defined in the *Real Estate Development Marketing Act*;

“security deposit” means a security deposit as defined in the *Residential Tenancy Act*, or an amount required by a cooperative association to be paid by a recipient to the cooperative association for the same or a similar purpose as a security deposit under the *Residential Tenancy Act*.

(2) The minister may provide a security deposit to or for a family unit that is eligible for income assistance or hardship assistance if

- (a) the security deposit is necessary to enable the family unit to rent residential accommodation,
- (b) the recipient agrees in writing to repay the amount paid under this section, and
- (c) the security deposit does not exceed 50% of one month's rent for the residential accommodation.

(3) The minister may recover the amount of a security deposit provided under subsection (2) by deducting \$20 for each calendar month, or a greater amount with the consent of a recipient, from income assistance or hardship assistance provided to or for the family unit starting with the income assistance or hardship assistance provided for the calendar month following the calendar month during which the security deposit is paid.

(4) The minister must not provide more than 2 security deposits to or for a family unit unless

- (a) only one of the security deposits has not been recovered or repaid,
- (b) the family unit requires up to one more security deposit to change rented residential accommodation

- (i) because the recipient is separating from an abusive spouse, or

- (ii) because the family unit's rented residential accommodation

- (A) is being sold or demolished and a notice to vacate has been given, or

- (B) has been condemned, or

- (c) the minister is satisfied that the family unit is homeless or at imminent risk of becoming homeless...

The ministry argued that the appellant had received a first security deposit in March 2013 in the amount of \$450 for which she still owed \$90 and a second security deposit in January 2014 in the amount of \$475 for which she owed the full amount and therefore she did not meet the eligibility criteria of the legislation, in particular that only one previous security deposit had not been repaid.

The appellant argued that her former landlord told her to move out of her residence without giving her back the last security deposit and her new landlord where she was to move on 1 January 2015

requested a \$425 security deposit that she could not pay, not having the financial resources and required assistance from the ministry.

The panel notes that there is no evidence that the appellant was separating from an abusive spouse or that her residence was being sold or demolished or had been condemned or that the appellant's family unit was homeless or at imminent risk of being homeless. The evidence showed that the appellant had 2 previous security deposits pending for which she owed \$90 for the first and the full amount of \$475 for the second thus giving the ministry no alternative but to determine there was more than one security deposit that had not been recovered or repaid. Consequently, the panel finds the ministry reasonably determined the appellant was ineligible for a third security deposit under s. 58 of the EAR.

Therefore, the panel finds the ministry's decision was reasonably supported by the evidence and was a reasonable application of the applicable enactment in the circumstances of the appellant and confirms the decision.