

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the Ministry) reconsideration decision dated February 13, 2015 in which the Ministry denied the Appellant's request for a crisis supplement to pay her outstanding shelter costs (rent and hydro, November 2014 - January 2015). The Ministry determined that the Appellant's request for a crisis supplement did not meet all of the requirements in section 59 of the Employment and Assistance Regulation (EAR). The Ministry found that three criteria in EAR section 59(1) were not met:

1. Section 59(1)(a): The family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed;
2. Section 59(1)(a): The family unit is unable to meet the expense or obtain the item because there are no resources available; and
3. Section 59(1)(b): The minister considers that 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 removal of a child under the *Child, Family and Community Service Act*.

PART D – Relevant Legislation

Employment and Assistance Regulation, section 59

PART E – Summary of Facts

The evidence before the Ministry at reconsideration consisted of:

- A Request for Reconsideration signed by the Appellant on February 10, 2015 with an attached one page submission in which she stated that her hydro had been paid direct by the Ministry (to the utility company) for the past four years. In November 2014, she paid her landlord \$1,000 for rent and the downstairs tenant was supposed to pay the extra \$200 to the landlord. The tenant instead paid \$200 for hydro at the bank. The landlord agreed to put the hydro account in his name and when the Appellant called the Ministry to stop the hydro from being paid direct, the payment had already been sent. The Appellant owed \$300 for December rent, \$200 for hydro under the landlord's name, plus another \$200, and the landlord wanted the entire amount (\$700). The Appellant tried to get payday loans, a personal loan, a bank overdraft, and assistance from friends but no one could help. She sent the landlord all her money for February and he put all of it toward the November hydro and rent. She has tried everything; she is stressed and has never been in this situation before.
- A *10 Day Notice to End Tenancy for Unpaid Rent and Utilities* addressed to the Appellant and signed by her landlord on February 3, 2015. The notice states that the Appellant failed to pay rent in the amount of \$690 that was due on February 1, 2015, and utilities of \$220 following a written demand on February 3, 2015.

In its reconsideration record, the Ministry included a letter to the Appellant dated February 13, 2015 which stated that she is not eligible for a crisis supplement to pay her outstanding shelter costs. In its reconsideration record, the Ministry noted the following background information:

- The Appellant is in receipt of income assistance as a single parent of four children.
- Her monthly shelter allowance is \$750 and she was issued full shelter allowances from November 2014 - February 2015.
- Her monthly rent is \$800 per month plus hydro costs.
- The Ministry had been paying \$310 monthly directly to the utility company from the Appellant's assistance allowance.
- On November 24, 2014, the Appellant requested the Ministry to discontinue paying the hydro directly as her landlord will now be paying her hydro and she would be paying the landlord directly. The Ministry discontinued the direct hydro payments.
- On February 4, 2015 the Appellant submitted an eviction notice to the Ministry. The notice was due to her failure to pay February rent of \$690 and February utilities of \$220.
- On February 5, 2015 the Appellant stated that her November 2014 rent had not been paid in full and December 2014 and January 2015 hydro had not been paid. The Appellant was not sure if the payments she did make had been applied to outstanding amounts or current charges.
- The downstairs tenant paid their portion of the November hydro (\$200) directly to the utility company.

Appellant's additional submission

Subsequent to the reconsideration decision, the Appellant submitted a Notice of Appeal dated February 20, 2015 in which she stated that her rent is \$1,200 plus hydro, not \$800 per month as reported by the Ministry. The Appellant wrote that she would not be in the situation of owing outstanding rent and hydro if her rent was \$800 per month

Attached to the Notice of Appeal was a one page financial transaction sheet showing the following transaction amounts transferred to the Appellant's landlord:

- October 18, 2014, \$260
- December 12, 2014, \$200
- January 3, 2015, \$100
- January 21, 2015, \$1,300

Also attached to the Notice of Appeal was *A Notice of Rent Increase – Residential Rental Units* addressed to the Appellant and signed by her landlord on February 3, 2014. The notice indicated a \$25 increase in the rent effective June 1, 2014. The current rent is \$1,200 per month and the new rent will be \$1,225 per month.

The panel finds that the information in these documents corrects an error in the Ministry's information regarding the Appellant's rent and sets out payments to her landlord. The amount of her rent as well as direct payments to her landlord are both covered in the reconsideration decision and the panel finds that the Appellant's additional information therefore substantiates the information the Ministry had at the reconsideration. The panel admits the information under section 22(4)(b) of the *Employment and Assistance Act* (EAA) as evidence in support of the information and records that were before the Ministry at the time the decision being appealed was made.

Ministry's additional submission

The Ministry submitted a letter to the Employment and Assistance Appeal Tribunal dated March 19, 2015 in which it acknowledged that it made an error regarding the amount the Appellant pays for rent. The Appellant's rent has been \$1,200 per month since May 2011.

The panel finds that the information in this letter corrects an error in the information in the reconsideration record and therefore substantiates the additional information provided by the Appellant and confirms the information the Ministry had regarding the actual amount of the Appellant's rent. The panel therefore admits the information 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.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry's reconsideration decision of February 13, 2015 which denied the Appellant's request for a crisis supplement to pay her outstanding shelter costs because her request did not meet three criteria under section 59 of the EAR was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the Appellant. The Ministry found that the Appellant's request for a crisis supplement did not meet the "unexpected need" or "no resources available" criteria in EAR section 59(1)(a), or the "imminent danger" to physical health criterion in EAR section 59(1)(b).

The following sections of the EAR apply to crisis supplements and are the sections at issue in this appeal:

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.

The three criteria the Ministry found were not met are addressed as follows:

EAR section 59(1)(a): the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed

Appellant's position

In her Request for Reconsideration, the Appellant argued that her outstanding rent and hydro expenses were unexpected because the downstairs tenant paid \$200 (out of the \$1,200 rent for November 2014) to the bank for hydro expenses, rather than directly to the landlord which was supposed to be the arrangement. The Appellant stated that this set her back by \$200.

The Appellant further submitted that her outstanding hydro expense was unexpected because by the time the Appellant asked the Ministry to stop sending her hydro payment directly to the utility company, the Ministry had already sent a \$310 payment. This meant that the Appellant had to come up with \$300 for rent for December, plus \$200 for hydro under the landlord's name, as well as the \$200 rent that was outstanding for November 2014,

Ministry's position

In its reconsideration decision, the Ministry reported that the Appellant had stated that her new landlord was not as lenient about late rent and utility payments as the previous landlord had been, and that she has a history of late payments for rent and hydro but her previous landlord allowed it. The Ministry argued that the need to pay monthly shelter costs on time cannot be considered unexpected, regardless of the arrangements the Appellant had with her previous landlord. The Ministry submitted that it is not clear why the Appellant had an outstanding amount of \$700 for rent and hydro when her shelter expenses had not changed for December 2014.

In its submission to the tribunal of March 19, 2015, the Ministry stated its position: Despite its error regarding the amount of rent the Appellant pays (the correct amount is \$1,200 per month), she has been required to pay the \$1,200 rent since May 2011 and therefore her rent is not an unexpected expense.

Panel's decision

The panel finds that the Ministry reasonably determined that the Appellant's outstanding rent and hydro (totalling \$700) was not an unexpected expense as required under EAR section 59(1)(a). This section authorizes the Ministry to provide a crisis supplement only if the expense or need for an item is unexpected, and if all other requirements in section 59(1) (addressed under the headings below) are also met.

As evidenced by the *Notice of Rent Increase – Residential Rental Unit*, the Appellant's rent obligation was \$1,225 per month, payable starting on June 1, 2014. The notice indicates that the rent was \$1,200 per month prior to June 2014. In her Notice of Appeal, the Appellant stated that her rent was \$1,200 plus hydro. Further, in its letter to the tribunal of March 19, 2015, the Ministry stated that the

Appellant has been required to pay \$1,200 rent since May 2011. The Appellant acknowledged that she owes monthly rent and hydro but stated that she has a history of making late payments. She also stated that she has lived in her place for seven years.

The panel finds that the Ministry reasonably found that there was no indication the Appellant's shelter costs had changed from \$1,200 per month (except for a \$25 increase effective June 2014). Making late payments does not negate an obligation to pay the entire amount owing for rent and hydro each month. Such obligation would be set out in agreements the Appellant had with the landlord and/or the utility company. These are ongoing obligations and the Appellant reported she had lived in the residence for seven years; therefore, the Ministry reasonably determined that any outstanding amounts cannot be seen as an unexpected event.

With regard to the Appellant's argument that the downstairs tenant was supposed to pay \$200 directly to the landlord and it set her back unexpectedly when the tenant paid the bank instead, the panel notes there is no documentation regarding either the Appellant's or the landlord's arrangements with this tenant. The *Notice of Rent Increase* and the Ministry's record indicate that the Appellant is liable for the full rent. The *Notice of Rent Increase* is addressed only to the Appellant and the Ministry's letter of March 19, 2015 states that the Appellant's rent is \$1,200 per month.

With regard to the Appellant's argument that she faced further unexpected problems when the Ministry forwarded a \$310 hydro payment directly to the utility company when she thought she would pay hydro directly to the landlord, it is not clear to the panel how that would cause her hydro bills to be unexpected. On November 24, 2014, the Appellant requested the Ministry to stop forwarding the payments to the utility company and the Ministry stopped doing so (the Ministry stated that it stopped the payments prior to December 2014). In any event, the Appellant would still owe the landlord for hydro, and given that she indicates she made an arrangement to pay hydro directly to the landlord, the panel finds that the Ministry reasonably determined that her hydro obligation and any outstanding amounts cannot be characterized as an unexpected expense. Further, she has the hydro obligation regardless of whether she makes payments to the landlord or has payments made to the utility company on her behalf; and regardless of whether the payment is made on time or paid late.

Given the above analysis, the panel finds that the Ministry reasonably determined that the Appellant's request for a crisis supplement does not meet the criterion of an unexpected expense or item unexpectedly needed pursuant to EAR section 59(1)(a).

EAR section 59(1)(a): the family unit is unable to meet the expense or obtain the item because there are no resources available

Appellant's position

In her Notice of Appeal, the Appellant argued that she would not be in the situation of owing outstanding rent and hydro if her rent was \$800 per month (as the Ministry had erroneously reported), rather than \$1,200 per month. In her Request for Reconsideration, she stated that she was trying to resolve the situation on her own before asking the Ministry for a crisis supplement to prevent eviction by her landlord. In her submission for the reconsideration, the Appellant stated that she tried to give the landlord as much as she could but he demanded the entire outstanding amount (\$700). She tried unsuccessfully to get payday loans, a personal loan, a bank overdraft, and assistance from friends and is very stressed about the situation.

Ministry's position

In its reconsideration decision, the Ministry argued that the Appellant had resources because she was issued the full shelter allowance of \$750 per month for November and December 2014, and January and February 2015. Prior to December 2014, the Ministry paid the utility company directly for several years. The Ministry argued that the Appellant was accustomed to budgeting for her shelter costs even though they are higher than her shelter allowance. Therefore, the criterion of having no resources available, EAR section 59(1)(a), was not met.

Panel's decision

The panel finds that the Ministry reasonably determined that the Appellant's request for a crisis supplement for outstanding rent and hydro does not meet the criterion of having no resources available to meet the expense as required by EAR section 59(1)(a). The panel notes that the Appellant did not provide any bank statements or financial records to indicate whether she had any of her income assistance remaining with which to pay her outstanding shelter balance or whether she had other resources such as a child tax allowance or other monies. The only financial record she provided was the financial transaction sheet attached to her Notice of Appeal and it showed that she had made money transfers to her landlord between October 2014 and January 2015.

The Ministry indicated that it issued \$750 for shelter each month from November 2014 to February 2015 and that it had been making payments to the utility company (\$310 taken out of the shelter allowance) on the Appellant's behalf for several years. This indicates that the Appellant would have to have other resources with which to pay her shelter balance. As she was only receiving a \$750 shelter allowance and her rent was \$1,200, she would be short \$450 each month unless she budgeted the support portion of her income assistance and any child tax allowances or other resources in order to pay the remaining shelter amount. The details of what she used her support allowance for and the financial arrangement between the Appellant and the "tenant that lives downstairs" were not provided.

The Appellant stated that she attempted to get a loan from several sources. However, the evidence is that she had the \$1,200 per month shelter obligation for at least three years (as indicated in the Ministry's letter of March 19, 2015); that this amount is greater than her shelter allowance of \$750 per month; and that her shelter costs did not increase, except by \$25 as indicated in the *Notice of Rent Increase*. The Appellant indicated that she did not run into problems paying her shelter costs until she made new arrangements for hydro with her landlord and the downstairs tenant, and her new landlord refused to accept late payments. Nevertheless, as stated earlier, the Appellant's obligation to pay the full shelter cost existed regardless of whether she paid it late or not. The panel therefore finds that the Ministry reasonably determined that the Appellant was accustomed to working out a way to pay her shelter costs and the information that was available regarding her resources did not meet the criterion of having no resources available under EAR section 59(1)(a).

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EAR subsection 59(1)(b): 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 removal of a child under the Child, Family and Community Service Act

Appellant's position

In the submission attached to her Request for Reconsideration, the Appellant submitted that she does not want to have to move because she has lived in the residence for seven years and has four kids. She has tried everything to find a way to pay her outstanding shelter costs and avoid eviction and she is very stressed by her situation.

Ministry's position

In its reconsideration decision, the Ministry argued there is no evidence that the Appellant's health or the health of her children will be in imminent danger if she is not able to pay the outstanding shelter costs. The Ministry submitted that the Appellant has the option of finding alternate housing if she is not able to negotiate a payment plan with her current landlord. Therefore, the eligibility requirement for imminent danger in EAR section 59(1)(b) was not met.

Panel's decision

Section 59(1)(b) 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 or removal of a child from the home. The criterion is met only if the failure to obtain the crisis supplement to pay the expense will result in imminent danger to physical health, or the removal of a child under the *Child, Family and Community Service Act*.

The panel notes that the Appellant did not provide any information regarding her or her children's physical health. The Ministry could therefore not be satisfied that the Appellant will face imminent danger if she did not receive a crisis supplement to pay the outstanding amounts for rent and hydro. The Appellant's statements that she did not want to move and was stressed by her situation do not address any imminent danger to physical health.

The Ministry's submission that the Appellant has the option of finding alternate housing may not be realistic given that the Appellant has four children. However, the panel finds that the Ministry reasonably determined that the Appellant did not provide information, such as a lack of other affordable housing options, to confirm that a failure to receive a crisis supplement for outstanding shelter amounts will result in imminent danger to the family's physical health or the removal of a child under the *Child, Family and Community Service Act* pursuant to EAR section 59(1)(b).

Conclusion

The panel finds that the Ministry's reconsideration decision finding the Appellant ineligible for a crisis supplement for her outstanding shelter costs because her request did not meet three criteria in EAR section 59(1) was reasonably supported by the evidence. The panel confirms the Ministry's reconsideration decision.