

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision dated May 12, 2015, wherein the ministry denied the appellant a crisis supplement for shelter for April 2015. The basis for the ministry’s decision was that the appellant did not satisfy three statutory criteria as set out in section 59 (1) of the Employment and Assistance Regulation. The ministry held that:

1. the expense was not unexpected,
2. failure to obtain the item would not result in imminent danger to health, and
3. there were alternate resources available to the family unit.

## PART D – Relevant Legislation

Employment and Assistance Regulation (“EAR”) section 59

## PART E – Summary of Facts

The appellant did not attend the hearing. Upon confirming that the appellant was notified the hearing proceeded in accordance with section 86(b) of the Employment and Assistance Regulation.

The ministry requested to have an additional ministry staff member attend the hearing. However, as consent was not provided by the appellant, the observer was not permitted to attend.

The information before the ministry at the time of reconsideration included the following:

- The appellant's Request for Reconsideration, dated May 11, 2015, which included the appellant's written submission;
- A written message from the appellant to the ministry dated April 21, 2015,
- A 10 day notice to end tenancy dated April 17, 2015 stating that the appellant has failed to pay rent of \$725 that was due on April 1, 2015.

### Assessment of the Evidence

Information in the Request for Reconsideration and the reconsideration decision indicated that:

- The appellant is a recipient of income assistance as a single employable person. He receives \$610 monthly (\$235 for support and \$375 for shelter).
- The appellant's monthly shelter costs are \$1,025.00 (\$725.00 rent plus \$300 utilities). At the hearing the ministry clarified that "\$300 shelter" should read "\$300 utilities".
- On April 7, 2015 the appellant advised the ministry he had received an eviction notice due to non-payment of April rent.
- On April 14, 2015 the appellant provided the ministry with a copy of the current custody agreement showing 2 options. The appellant stated he has the children 50% of the time but was not able to provide confirmation. Shared parenting shelter allowance was issued for March and April 2015 in the amount of \$285 per month. The appellant was advised that further shared parenting shelter allowance was dependent on submission of confirmation of the actual amount of time the children reside with the appellant. The shared parenting shelter allowance has been discontinued as the appellant has not provided confirmation of the time the children spent with him. This issue has been dealt with in a separate Request for reconsideration.
- On April 21, 2015 the appellant provided a copy of his eviction notice. The appellant stated that he requires the extra room for his children as he has shared custody. The appellant's custody agreement indicates that he has his children alternate weekends, Friday, Saturday and every Wednesday night. The appellant was advised to pursue all sources of resources. He requested a crisis supplement to pay his outstanding April rent.

In his note to the ministry the appellant wrote that:

- He has an eviction notice because he receives \$590 a month and his rent is \$725 plus utilities.
- He has his 2 children 50% with consent conditions to follow like pick up and drop offs ....a huge portion of his income goes for gas and rides.

In his reconsideration submission the appellant wrote that:

- Without a crisis supplement he will lose his apartment.
- Then he will lose his 50% sharing time with his children.
- If he does not have his apartment to come back to from work he won't be able to see his

children there.

- He does not have friends or family to turn to where he lives now.
- The apartment is all he has.
- He is only here for his children, otherwise he would be in another province.

In his Notice of Appeal dated May 22, 2015, the appellant wrote that:

- He received outside resources from a community center for May for \$375 and waiting for April for \$375 which leaves \$730 owing.
- Half has been paid.
- Money from crisis supplement will clear this debt.

In its oral testimony the ministry relied on its reconsideration decision and clarified the following: When a client's rent is higher than his/her shelter allowance the ministry will ask the client how she/he plans to pay this rent, and will suggest a move to an alternate shelter.

#### Admissibility of Additional Documentary Information

The panel accepted the appellant's appeal submission in accordance with section 22(4) of the *Employment and Assistance Act*, because this information is in support of the information and records that were before the ministry at reconsideration; specifically, the statements in the Notice of Appeal confirmed that the appellant was owing rent money, and that the appellant acted on the ministry's advice to obtain additional funds through a community center.

#### Admissibility of Additional Oral Information

The oral statements of the ministry representative substantially reiterated information that had been before the ministry at reconsideration. The panel accepted these statements as being oral testimony in support, in accordance with section 22(4)(b) of the *Employment and Assistance Act*.

## PART F – Reasons for Panel Decision

The issue on appeal is the reasonableness of the ministry's reconsideration decision dated May 12, 2015, wherein the ministry denied the appellant a crisis supplement for shelter. The basis for the ministry's decision was that the appellant did not satisfy three statutory criteria as set out in section 59(1) of the Employment and Assistance Regulation. The ministry held that:

1. the expense was not unexpected,
2. failure to obtain the item would not result in imminent danger to health, and
3. there were alternate resources available to the family unit.

The relevant legislation is as follows:

### EAR

#### Crisis supplement

**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.
- (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 income 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.

**Unexpected**

The appellant does not provide any argument on how paying his rent is an unexpected expense. He argues that he requires a crisis supplement for outstanding rent and needs his apartment because he has shared custody where his children reside with him 50% of the time.

The ministry's position is that the need to pay rent each month is not unexpected, and that the appellant was aware that the amount of his rent exceeded the amount of his shelter allowance.

**Panel Decision**

Section 59(1)(a) specifies that the crisis supplement must be for an "unexpected expense" or to obtain an item "unexpectedly needed". The appellant has provided no evidence as to why paying his monthly rent is an "unexpected expense". Therefore the panel finds that the ministry was reasonable in concluding that the appellant has not satisfied the legislative criterion that the expense for rent was "unexpected".

**No Resources**

The appellant's position is he has no friends or family to turn to for alternate resources. He has received outside resources from a community center but half of his April 2015 rent is still owing.

The ministry's position is that even though shared parenting shelter allowance was issued to the appellant for April 2015, it does not appear the appellant has used his April shelter allowance and shared parenting shelter allowance towards his April 2015 rent. The ministry had advised the appellant to pursue all sources of funding.

**Panel Decision**

The evidence indicates that the appellant has not used his April shelter allowance and shared parenting shelter allowance for his April rent and thus has not made good use of the resources that were available to him. Further, there is insufficient evidence that the appellant has exhausted all resources that were available to him.

Based on the foregoing, the panel finds that the ministry reasonably concluded that the appellant has not satisfied the legislative criterion that he has no resources available pursuant to section 59(1)(a) .

**Imminent Danger to Physical Health**

The appellant did not provide any information or argument how failure to obtain a crisis supplement for April 2015 rent would result in imminent danger to his or his children's physical health.

The ministry's position is that there is insufficient evidence to support a probability of immediacy that failure to obtain the requested item will place the appellant's health in imminent danger. The ministry noted that he has the option to obtain alternate shelter.

Panel Decision

In the panel's view the word "imminent" connotes a degree of immediacy that has not been demonstrated in the appellant's circumstances. There is no evidence that failure to obtain the requested crisis supplement will put the appellant or his children's physical health in imminent danger. Further, there is no evidence that the appellant has sought alternate accommodation due to health concerns. The panel notes that the he has not provided any information from a physician regarding imminent danger to physical health.

Accordingly, the panel finds that the ministry was reasonable in determining that the appellant has not satisfied the legislative criterion related to "imminent danger to physical health" in accordance with section 59(1)(b)(i).

**Removal of a Child**

The appellant argues that without a crisis supplement he will lose his apartment and the opportunity to see his children.

Panel Decision

The panel finds that there is no evidence that failure to obtain the crisis supplement will result in removal of a child under the *Child, Family and Community Service Act* as set out in section 59(1)(b)(ii). Specifically, there is no evidence that the appellant's children would be removed from his care if he lost his apartment due to rent arrears.

**Conclusion**

Since the criteria in EAR section 59 have not been satisfied, the panel finds that the ministry's decision to deny the appellant a crisis supplement for shelter was reasonably supported by the evidence and a reasonable application of the applicable enactment in the circumstances of the appellant. The ministry's decision is confirmed.