

### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (the Ministry's) reconsideration decision dated April 28, 2015, which held that the Appellant was not eligible for a crisis supplement to purchase shoes under section 59 of the Employment and Assistance Regulation as there was insufficient information to establish that all of the criteria had been met, specifically that the need was unexpected and that there were no other resources available to obtain the clothing under section (1)(a), and that failure to obtain the item would result in imminent danger to the Appellant's physical health under section (1)(b).

### PART D – Relevant Legislation

Employment and Assistance Regulation (EAR) section 59.

## PART E – Summary of Facts

In the Request for Reconsideration, dated April 27, 2015, the Appellant states that his clothes were put outside of his previous address and he lost them all. Someone took all of his belongings. The Appellant says that he has only the clothes on his back and that he needs clothes to look for work as the Ministry requests that he looks for work. The Appellant wrote that he told the ministry that his clothes were stolen.

In the Notice of Appeal, dated May 11, 2015, the Appellant states that he is currently looking for work and that he is going to workshops at an employment service provider. He says that his shoes are falling apart and that he has one pair of old jeans. The jeans are not good for interviews. He states that he has only 60 dollars left for food and clothing after he receives his cheque.

At the hearing, the Appellant's witness stated that she knew the Appellant's landlord put the Appellant's things outside the door of the premises because the same thing happened to her. The landlord also evicted her and put her belongings outside the building. All of her belongings were stolen as well. The Witness states that they were asked to leave in late February (around the 24<sup>th</sup> or 25<sup>th</sup> of February) but couldn't carry all of their belongings when they left. After they were gone, their things were put outside the building. The Witness stated that she received a crisis supplement from the Ministry after losing her belongings.

At the hearing, the Appellant stated that he asked for a crisis supplement for clothing but was turned down. He has one pair of jeans, no underwear or socks, and his shoes are falling apart. In response to questioning by the panel, the Appellant stated that he was evicted and, when he was asked to leave at the end of February, he took a few personal items. When he returned a few days later with a friend who had a vehicle to help him move, all of his things were gone. All of his clothing was put into bags and the bags were put right outside on the front doorstep. The Appellant also stated that he had been to local community resources to replace some of his belongings, but that even at these community resources, things are not free and he finds it hard to wear shoes that have been previously worn by another person. In response to questioning by the Ministry, the Appellant confirmed that he did not call the police to report the stolen property. The Appellant also stated that he walked to his current residence (about 8 blocks away) with a few of his belongings on the day that he was asked to leave, but because he had a medical appointment, it took a couple of days before he could find someone to help him return to pick up the rest of his belongings. Although he originally thought that he had requested the crisis supplement at the beginning of March, he acknowledged at the hearing that it may have been sometime in April 2015.

The ministry relied on its reconsideration decision. At the hearing, the ministry clarified that there is an expectation that personal belongings will be protected from theft and, where stolen, that all reasonable efforts are taken to retrieve them, including filing a police report. There was no indication in the Appellant's file that he had requested a supplement prior to April 14, 2015.

### *Admissibility of Additional Information*

The ministry did not object to the admissibility of the oral evidence presented on behalf of the Appellant. The panel determined that the additional oral evidence provided by the Witness corroborated the circumstances around the Appellant's loss of his belongings. The Witness's evidence that she received a crisis supplement for circumstances that she viewed as similar to the Appellant's circumstances established that the landlord took the same basic approach in the eviction

of two tenants and therefore corroborates the Appellant's statements that his clothing was stolen. The panel finds that the Witness's evidence was admissible under section 22(4) of the Employment and Assistance Act (EAA) as it was in support of the information that the Appellant provided in the request for reconsideration.

The panel determined that the additional oral evidence provided by the Appellant that a medical appointment delayed his return to pick up his belongings corroborated and provided context and a timeline for the Appellant's statement in the Request for Reconsideration that he lost all of his clothes because they were left outside his previous residence for multiple days. Therefore the panel finds that the additional oral evidence was admissible under section 22(4) of the Employment and Assistance Act (EAA) as it was in support of the information that the Appellant provided in the request for reconsideration. The panel did not admit the Appellant's evidence about checking with community resources for used clothing and shoes as this information was not before the ministry at reconsideration.

*Findings of Fact*

The panel finds that the majority of the Appellant's belongings, including his clothes, were lost at the end of February 2015 after he was evicted. The panel also finds that the Ministry's records show that the Appellant requested a crisis supplement for shoes on April 14, 2015 when his only remaining pair of shoes was worn out.

## PART F – Reasons for Panel Decision

The issue is whether the Ministry's decision to deny the Appellant a crisis supplement for shoes under section 59 of the EAR was reasonably supported by the evidence or a reasonable application of the legislation in the circumstances of the Appellant, specifically it was not unreasonable that there was insufficient evidence to determine that the Appellant's need was unexpected and that there were no other resources available to obtain the clothing under section (1)(a), and that failure to obtain the item would result in imminent danger the Appellant's physical health under section (1)(b).

The legislation provides the following:

### Employment and Assistance Regulation

#### **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, 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...

#### *Ministry's position*

The Ministry argues that the Appellant did not meet the three eligibility criteria under section 59 of the EAR, specifically that the need for the requested item (shoes) was an unexpected expense, that failure to obtain the shoes would result in imminent danger to health, and that there are no alternate resources available to obtain the shoes. The Ministry argues that the need to replace worn out shoes is not unexpected, nor that it is unexpected that unsecured belongings have the potential to be stolen. In addition, the Ministry argues that there is insufficient evidence that failure to obtain shoes will place the Appellant's health in imminent danger, and finally the Ministry argues that at the time of reconsideration, there was no evidence that the Appellant had attempted to access community resources to obtain new shoes.

#### *Appellant's position*

The Appellant argues he lost of all his belongings when they were put outside his former residence by

his former landlord. He argues that he does not have appropriate clothes to wear while he looks for work, and that he does not have enough money from his income assistance to pay for both food and clothing.

*Panel decision*

In order to obtain a crisis supplement for shoes, the legislation provides eligibility criteria under section 59(1) of the EAR. In order to be eligible for a crisis supplement for shoes, the Appellant must show (a) that he requires the crisis supplement in order to meet an unexpected expense or obtain an item unexpectedly needed and that there are no other resources available to meet this need, and (b) that failure to meet this need will result in imminent danger to his physical health.

The panel finds that the Ministry's decision that the Appellant did not meet the first criteria (a) under section 59 (1) of the EAR was reasonably supported by the evidence and was a reasonable application of the legislation. The Appellant applied for the crisis supplement on April 14, 2015 after his only remaining pair of shoes was worn out. The panel finds that the six weeks occurring between the time that his belongings were stolen and the first recorded request for a crisis supplement indicates that the Appellant had a reasonable period of time to replace his shoes and therefore, that the worn out shoes were not unexpected. In addition, panel finds that the Ministry reasonably determined that unsecured belongings have the potential to be stolen if they are left in plain view for two days. While the Appellant argued that he was delayed returning to retrieve his belongings due to a medical issue and finding someone with a vehicle to help him, the Appellant did not refer to any efforts to protect his belongings in the meantime and he admitted that he did not contact the police after the items were stolen. Finally, although the panel notes that the Appellant stated at the hearing that he visited community resources, this evidence was not before the Ministry at the time of reconsideration and therefore the Ministry reasonably concluded that there was insufficient information to meet the criteria that there were no other resources available.

The panel finds that the Ministry's decision that the Appellant did not meet the second criteria (b) under section 59(1) of the EAR was also reasonably supported by the evidence at the time of reconsideration. Although the Appellant did say that failure to obtain shoes makes searching for a job very difficult, he has not demonstrated that failure to obtain shoes will result in "imminent danger to his physical health". Therefore the panel finds that the Ministry reasonably determined that there was insufficient evidence to show that the Appellant met this criterion as well.

*Conclusion*

Therefore, the panel finds that the Ministry's decision was reasonably supported by the evidence and confirms the Ministry's decision.