

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated May 11, 2015 that the appellant did not qualify for a crisis supplement for replacement of his hot water tank because the information provided did not establish that under section 59(1) of the EAR:

- The supplement was needed to meet an unexpected expense or obtain an item unexpectedly needed
And
- The appellant had no resources available to meet the need for a hot water tank
And
- Failure to provide the item would result in imminent danger to his physical health.

PART D – RELEVANT LEGISLATION

Employment and Assistance Act (EAA) section 4,
Employment and Assistance Regulation (EAR) section 59.

PART E – SUMMARY OF FACTS

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

- Ministry records show the appellant is a single recipient with Persons with Persistent Multiple Barriers (PPMB) designation receiving \$697.92 monthly.
- The appellant owns a trailer which he keeps at a campground; he pays \$350.00 monthly for pad rent, electricity, and water.
- On March 17, 2015 the appellant requested a crisis supplement for food, clothing and replacement hot water tank. The appellant told the ministry that he had been living without a hot water tank for 6 months.
- On March 18, 2015 the appellant was found ineligible for a crisis supplement for replacing his hot water tank, but his request for clothing and food was approved by the ministry.
- The appellant's request for reconsideration dated March 30, 2015 indicates that he owns his own trailer, and that he is responsible for the hot water tank repair or replacement.

In his Notice of Appeal received on May 27, 2015, the appellant wrote that due to his combined health issues, the inability to shower properly and the lack of hot water on demand to clean his house resulted in a 'snowball effect' on his health.

The appellant's testimony at the hearing is as follows:

He clarified that he lived in an RV park, not a campground. He is able to do his own electrical and plumbing work, and doesn't need help for this; his hot water tank is beyond repair. The hot water tank lasted for 11 years before it stopped working, beyond the expectancy of the item. He said that he was not a member of any group, church or organization that could assist him in obtaining a hot water tank. He outlined his medical history noting that in 2008 he injured his left knee at work, and while waiting for surgery he had a heart attack and underwent surgery for a stent placement. His knee surgery followed. In 2011 he was diagnosed with hepatitis C and underwent treatment for 48 weeks, taking almost 2 years to recover. Prior to treatment he lost 60 pounds and was very weak. The appellant said that his medical conditions are arthritis, heart disease, and the effects of Hepatitis C; he stated that his health is deteriorating. He cannot boil water fast enough for cleanliness of his home and his person, and he is concerned that he will be unable to process and can the food that he grows as this requires hot water.

In response to questions from the ministry and the panel, the appellant said that while in the workforce, he was in the 'trades' and repairs and fixes what can be fixed. He has a spare 30 gallon water tank that is outside of his trailer, but this does not work, is too big for his trailer and the electric supply, and has no monetary, trade, or practical value.

The appellant went on to explain that he cannot keep up boiling water, because of the amount needed and the time required. He stated that he doesn't over exert himself because of his heart condition, and after about 40 minutes he requires a rest. His primary mode of transportation is by foot, and both knees and ankles are arthritic, hence limiting his walking time. He said that any money he is able to save is used for shoes. When asked by the ministry if he was applying for PWD

status, the appellant said that would probably be his next step. He said that his symptoms have been worsening over the past year, but added that he is also getting older, and has worked in heavy industries for all of his working life.

The panel finds the appellant's testimony relates to his shelter expenses, resources available to him, and his medical conditions, particularly his PMB status. The panel therefore admits the testimony as evidence in support of the information and records that were before the ministry at the time the decision being appealed was made.

At the hearing, the ministry summarized its reconsideration decision and did not introduce any new evidence.

During the course of the ministry representative's reading of the relevant section of the reconsideration decision, the appellant interrupted and asked the representative of the ministry if the ministry still believed there was insufficient information of his health problems, and the representative answered 'yes'. At this point, the appellant stated that he had 'reached the end' and if he did not get a hot water tank, he planned to go to the Supreme Court and the media. The appellant then hung up the phone and concluded his participation in the hearing. The hearing continued in his absence.

PART F – REASONS FOR PANEL DECISION

The decision under appeal is whether the ministry's reconsideration decision which held that the appellant was not eligible for a crisis supplement for a hot water tank was reasonably supported by the evidence or a reasonable application of the applicable legislation in the circumstances of the appellant. The ministry determined that the appellant did not qualify for a crisis supplement for shelter costs because the information provided did not establish that, as required under section 59(1) of the EAR:

- The supplement was needed to meet an unexpected expense or obtain an item unexpectedly needed
And
- The appellant had no resources available to meet the need for a hot water tank
And
- Failure to provide the item would result in imminent danger to his physical health.

The following section of the EAR applies to this appeal:

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*.

Unexpected expense or obtain an item unexpectedly needed:

At the hearing, the appellant said that his hot water tank was 11 years old when it stopped working, and it actually worked longer than expected.

The ministry argues that the appellant has not demonstrated that a crisis supplement is required to meet an unexpected expense. He has owned the hot water tank for over 10 years, and when requesting the supplement, the appellant had been living without a hot water tank for about 6 months. The ministry argues that it appears he has had sufficient time to plan for replacing the hot water tank.

The panel finds that the ministry reasonably determined that the appellant's need for the crisis supplement was not due to an unexpected expense. The appellant has acknowledged that the water tank actually functioned longer than anticipated, and that he

has been without the tank for at least 6 months.

No resources available to obtain the item:

At the hearing, the appellant argued that any extra money he has goes to footwear. He has not been able to save money for a hot water tank. He is not a member of any organizations, groups, or churches, so has no access to assistance from these sources. He is a capable trade's person, and if the hot water tank could have been fixed, he would have fixed it.

The ministry argued in their May 11, 2015 reconsideration decision that the appellant may not have the financial resources to purchase a new hot water tank. However, since he has not provided any information to satisfy the ministry that he has explored other options to replace or repair the hot water tank, the ministry argued that the appellant does not meet the criteria of having no available resources.

The panel finds that the additional information provided by the appellant at the hearing supports his lack of resources for the purchase of a hot water tank. Therefore, the ministry's decision on this criteria is not reasonably supported by the evidence.

Imminent danger to health:

In his notice of appeal, the appellant argues that due to his health issues – liver disease, heart disease, and arthritis – the inability to shower properly and the lack of hot water on demand to clean the home is resulting in a 'snowball effect' upon his health. This was reinforced by the appellant in his oral testimony, as he expanded upon his medical history, and stated that hot water was essential to maintaining his health in the face of his medical conditions. He also said that his symptoms have been worsening over the past year.

The ministry was not satisfied that failure to meet the expense for replacing the hot water tank would result in imminent danger to the appellant's physical health as he had been living without a hot water tank for 6 months and he has not demonstrated how failure to replace the tank would result in imminent danger to his health.

The panel finds that the ministry reasonably determined that failure to provide the hot water tank would not result in imminent danger to the appellant's physical health. As noted by the ministry, the appellant has lived without a hot water tank for an extended timeframe, and there is no medical evidence from a qualified health professional to support a deterioration or worsening of his health that would place the appellant at imminent danger.

Conclusion:

The panel finds that the ministry's decision to deny the appellant a crisis supplement to replace or repair a hot water tank because he did not meet all of the criteria under section 57(1) of the EAPWDR was reasonably supported by the evidence. The panel confirms the ministry's decision.