

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (Ministry) Reconsideration Decision dated August 12, 2015, which denied the Appellant's request for an increase in her shelter allowance amount. The Ministry determined that the Appellant's monthly rent amount is \$350, including utilities, and that under Sections 4 and 5 of Schedule A of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), the Appellant is entitled to the smaller of \$375 and her actual rent amount.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA) Section 5

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Schedule A, Sections 4 and 5

PART E – Summary of Facts

Information before the Ministry at reconsideration included:

- A copy of a Shelter Information form dated February 2, 2015, which states that the Appellant's rent amount is \$350 per month including heat, hot water and Hydro.
- The Appellant's Request for Reconsideration, signed July 22, 2015, with a letter from the Appellant "To whom this concerns" undated, which appears to deal with a different matter from this appeal.

Prior to the hearing, the Appellant submitted a letter from a property manager dated August 31, 2015, regarding the Appellant's tenancy from November, 2014 to January, 2015. The Panel determined that this documentary evidence was not admissible under s. 22 of the Employment and Assistance Act as it was not in support of the records before the minister at reconsideration and it deals with a matter that does not apply to this appeal. Some of the documentation submitted by the appellant and included in the appeal record referred to monthly payments for a period other than those referred to in the ministry's reconsideration decision. The Appellant agreed that these other references concerned a different appeal.

At the hearing, the Appellant stated that she understands that she is entitled to \$906 per month in disability assistance regardless of her shelter cost. In response to a question from the Panel about whether the disability assistance is divided into two amounts, the Appellant responded that she understands it to be a total, and there is always a variation in expenses month to month, so the total amount should be paid to her.

The Ministry responded that the Appellant was paid a shelter allowance for February and March, 2015 that was in accordance with the information on file as her actual shelter cost. The Ministry stated that there is no ability to pay an amount exceeding the Appellant's actual shelter cost. In response to a question from the Panel, the Ministry stated that the determination of the Appellant's monthly rent amount was based on the Shelter Information form contained in the appeal record.

PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the Ministry of Social Development and Social Innovation (Ministry) Reconsideration Decision which denied the Appellant’s request for an increase in her shelter allowance amount. The Ministry determined that the Appellant’s monthly rent amount is \$350, including utilities, and that under Sections 4 and 5 of Schedule A of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), the Appellant is entitled to the smaller of \$375 and her actual rent amount.

Legislation

EAPWDA

Disability assistance and supplements

5 Subject to the regulations, the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it.

EAPWDR

Schedule A

Monthly shelter allowance

4 (1) For the purposes of this section:

"family unit" includes a child who is not a dependent child and who resides in the parent's place of residence for not less than 40% of each month, under the terms of an order or an agreement referred to in section 1 (2) of this regulation;

"warrant" has the meaning of warrant in section 14.2 [*consequences in relation to outstanding arrest warrants*] of the Act.

(2) The monthly shelter allowance for a family unit to which section 14.2 of the Act does not apply is the smaller of

(a) the family unit's actual shelter costs, and

(b) the maximum set out in the following table for the applicable family size:

Item	Column 1 Family Unit Size	Column 2 Maximum Monthly Shelter
1	1 person	\$375

How actual shelter costs are calculated

5 (1) For the purpose of this section, utility costs for a family unit's place of residence include only the following costs:

(a) fuel for heating;

- (b) fuel for cooking meals;
 - (c) water;
 - (d) hydro;
 - (e) garbage disposal provided by a company on a regular weekly or biweekly basis;
 - (f) rental of one basic residential single-line telephone.
- (2) When calculating the actual monthly shelter costs of a family unit, only the following items are included:
- (a) rent for the family unit's place of residence;
 - (b) mortgage payments on the family unit's place of residence, if owned by a person in the family unit;
 - (c) a house insurance premium for the family unit's place of residence if owned by a person in the family unit;
 - (d) property taxes for the family unit's place of residence if owned by a person in the family unit;
 - (e) utility costs;
 - (f) the actual cost of maintenance and repairs for the family unit's place of residence if owned by a person in the family unit and if these costs have received the minister's prior approval.
- (3) If utility costs fluctuate, they may be averaged over the periods
- (a) beginning on October 1 and ending on March 31, and
 - (b) beginning on April 1 and ending on September 30.
- (4) If 2 or more family units share the same place of residence, the actual shelter costs of any one of them are the smaller of
- (a) the amount calculated by
 - (i) dividing the actual shelter costs for all the family units by the number of persons occupying that place of residence, and
 - (ii) multiplying the result by the number of persons in that one family unit, and
 - (b) the amount declared by the family unit as the shelter costs for that family unit.

The Appellant's position is that she should be paid the maximum amount of disability assistance for her family unit regardless of her actual shelter costs.

The Ministry's position is that shelter costs are based on the smaller of the amount listed in Schedule A, s.4 of the EAPWDR and actual shelter costs.

The Panel finds that the Ministry reasonably determined that the Appellant's shelter costs are \$350 per month based on the evidence, and there is no discretion in s.4 of Schedule A, EAPWDR to pay more than a shelter cost of \$350 to a family unit of one person. The Panel therefore confirms the Ministry decision as reasonably based on the evidence.