

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry) reconsideration decision dated August 11, 2015 which denied the appellant's request for a crisis supplement to cover the cost of a bed under Section 59 of the *Employment and Assistance Regulation* (EAR). The ministry found that the appellant had explored other resources and there were no alternate resources available; however, the ministry found that there was insufficient information to establish that:

- the cost of a bed was not an unexpected expense or an item unexpectedly needed ; and,
- failure to meet the expense will result in imminent danger to the physical health of any person in the appellant's family unit.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR), Section 59

PART E – Summary of Facts

The evidence before the ministry at the time of the reconsideration decision included the appellant's Request for Reconsideration- Reasons dated July 13, 2015.

In his Request for Reconsideration, the appellant wrote that:

- He did not say “slightly bad back”, he said “pretty bad back” and, in fact, his back is very bad and has been adjusted many times since he was a teenager.
- He is trying very hard to find laborer work and he needs to start work with a functional back in order to do physical work and get off assistance.
- The only reason he did not ask for help earlier is that he did not know the ministry could help and then a friend suggested he apply.

Additional Information

In his Notice of Appeal received by the Tribunal on August 24, 2015, the appellant expressed his disagreement with the ministry's reconsideration decision and wrote that:

- If he did not throw away his bed because of a flea infestation problem a couple of years ago, he would not even be asking for help.
- If he knew that assistance was available for a bed, he would have requested it immediately.
- He has seen a chiropractor many times and has missed/canceled appointments or days of work because of his bad back.

At the hearing, the appellant stated that:

- He has not been able to go to his chiropractor lately because he cannot afford the treatments, but the last time the chiropractor said that his back is getting worse. He does not have the money to get a letter from his doctor.
- Having a bed would definitely help with his back condition. His back is getting worse from sleeping on the floor.
- He knew that his new accommodation did not have a bed but he could not afford to buy one and he has a bad back. It is very difficult to find affordable accommodation and there is not much choice available within his budget.
- If he knew that help might be available through a crisis supplement, he would have asked “on day one.”
- He had a problem with fleas and had to throw his old mattress away. Otherwise, he would have had a mattress in storage and ready for his new place.
- He moved into his current residence to be closer to job opportunities.
- He has no extra money to pay for a bed.

The ministry relied on its reconsideration decision, as summarized at the hearing.

Admissibility of Additional Information

The ministry did not raise an objection to the admissibility of the information in the appellant's oral testimony or his Notice of Appeal. The panel admitted most of the information as it provided more detail relating to the appellant's need for a bed and is in support of information before the ministry on reconsideration, pursuant to Section 22(4) of the *Employment and Assistance Act*. The panel did not admit the information about the appellant having to throw out his previous bed due to a flea infestation as this information was not before the ministry at reconsideration and does not tend to corroborate the information and records at reconsideration.

PART F – Reasons for Panel Decision

The issue on the appeal is whether the ministry's decision which denied the appellant's request for a crisis supplement to cover the cost of a bed, as the requirements of Section 59 of the *Employment and Assistance Regulation* (EAR) were not met, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the appellant's circumstances.

Section 59(1) of the EAR sets out the eligibility requirements which are at issue on this appeal for providing the crisis supplement, as follows:

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 Item Unexpectedly Needed

The ministry's position is that the provisions of Section 59 of the EAR allow for the ministry to provide a crisis supplement when all of the legislative criteria are met, specifically in this appeal that the supplement is required to obtain an item unexpectedly needed or for an unexpected expense, and failure to obtain the item will result in imminent danger to the appellant's physical health. The ministry argued that since the appellant was aware that he was moving to an unfurnished suite from a furnished suite, it is not unexpected that he would need a bed in an unfurnished suite.

The appellant's position is that the cost of a bed is an item unexpectedly needed in his case because he ended up without a mattress and his previous residence was furnished so he did not need his own bed.

Panel decision

Section 59(1)(a) of the EAR sets out that a crisis supplement may be provided if the supplement is required to meet an unexpected expense or obtain an item unexpectedly needed. The panel finds that although the appellant did not have a mattress, he has lived in furnished residences for some time and he has had that time, while in a furnished suite, to plan and budget for the cost a bed. The panel finds that the ministry reasonably determined that it was not unexpected that the appellant would need a bed if and when he moved out of the furnished suite into unfurnished accommodation. While the appellant stated that there is little choice in affordable accommodation, the selection of the community in which he lives and either furnished or unfurnished accommodation is still a factor within his control. Therefore, the panel finds that the ministry reasonably concluded that the cost of a bed is not an item unexpectedly needed and is not an unexpected expense, under Section 59(1)(a) of the EAR.

Imminent Danger to Physical Health

The ministry's position is that the appellant has not provided sufficient information to establish that failure to obtain the requested bed will result in an imminent danger to the appellant's physical health.

The appellant's position is that failure to obtain the bed will result in imminent danger to his physical health since he has a very bad back and needs to have a functional back in order to secure work.

Panel Decision

Section 59 of the EAR sets out that a crisis supplement may be provided when all of the legislative criteria are met, including 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. While the appellant stated that he has a "very bad back" requiring many treatments by the chiropractor and he has missed appointments or days of work because of his bad back, he did not provide evidence that going without the bed poses a serious threat to an existing health issue or that a specific medical condition has developed that will result in imminent danger to his physical health. The appellant stated that he has not seen his chiropractor for some time because he cannot afford to pay for the treatments and he also does not have the money to get a letter from his doctor. The panel finds that the ministry's conclusion that there is not sufficient information to establish that failure to meet the cost of a bed will result in imminent danger to the physical health of any person in the appellant's family unit, pursuant to Section 59(1)(b) of the EAR, was reasonable.

Conclusion

Section 59 of the EAR stipulates that all of the requirements of the section must be met in order for a person to be provided with a crisis supplement. The panel finds that the ministry's reconsideration decision, which denied the appellant's request for a crisis supplement for the cost of a bed because all of the requirements of Section 59 of the EAR were not met, was reasonably supported by the evidence and the panel confirms the ministry's decision.