

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry) reconsideration decision dated October 19, 2015 which denied the appellant's request for a crisis supplement to cover September 2015 rent. The Ministry held that the requirements of Section 57 of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR) were not met as the ministry found that:

- the cost of rent was not an unexpected expense or an item unexpectedly needed;
- there was insufficient information to establish that there are no resources available to the family unit to pay rent; and,
- there was insufficient evidence to show that failure to pay rent will result in imminent danger to the physical health of anyone in the appellant's family unit or the removal of a child under the *Child, Family and Community Service Act*.

PART D – Relevant Legislation

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), Section 57

PART E – Summary of Facts

The evidence before the ministry at the time of the reconsideration decision included:

- 1) 10-Day Notice To End Tenancy for Unpaid Rent or Utilities dated September 8, 2015 stating in part that the appellant failed to pay rent in the amount of \$550 that was due on September 1, 2015 and that notice is given to move out of the rental unit by September 18, 2015; and,
- 2) Request for Reconsideration- Reasons dated October 1, 2015 and attached Request for a Supplement dated September 16, 2015.

In his Request for Reconsideration, the appellant wrote that:

- His eviction was unexpected as he signed a legal document and was interviewed by an insurance adjuster who asked him the amount of his monthly rent.
- “The insurance covers rent until repairs are completed.”
- All the tenants and neighbors witnessed the tree directly on my suite, contrary to the information the property manager told the ministry.
- The insurance did not cover removal of the tree from the entrance to his suite.
- Under “emergency repairs”, he has the lawful right to use rent money for repairs.
- A person with disability involving an eviction notice is at risk, is in imminent danger, and without means to seek financial (sic) or shelter that is suitable to wheelchair access and mobility issues regarding travel.
- His friends helped clear the walkway to his residence which was being blocked by the tree, branches and debris that fell on his roof on Saturday, August 29, 2015.
- He was without a stove for 2 weeks.
- The property manager did not hire someone to clear away the tree and branches until September 15, 2015.
- He has only been issued \$20 for food, which is insufficient to cover his “out-of-pocket” costs which exceeded shelter/rent allowance and 2 weeks of take-out food.
- He claims humanitarian grounds for having to use his rent and support after a major disaster.
- He informed the ministry before September 16, 2015
- He is applying for financial assistance due to loss of power, no cook stove, structural damage to his residence, immediate need for clearing access to his suite due to disability and mobility issues and flooding of his suite that occurred after the tree damaged his roof and water flooded into the suite from outside pooling on the wheelchair ramp.
- In the attached Request for a Supplement, the appellant also added that on August 29, 2015, the power failed and his groceries went bad in his fridge and a large tree fell on his suite.

In his Notice of Appeal stamped received October 26, 2015, the appellant wrote that:

- He has submitted evidence, both written affidavit and can provide witness account and digital photographic evidence.
- There is a clear distortion of facts and misinformation by the ministry. He has not added or omitted anything. These statements and information are true to the best of his knowledge.
- He has done everything he possibly can to pay his rent with the funds that the ministry provided.
- He has acted to the best of his ability and the ministry should help him and pay the full amount.

At the hearing, the appellant provided the following additional documents:

- 1) A series of 8 photographs taken August 30, 2015 showing his residence and the area surrounding, with a tree having fallen on the roof of the building, and branches and leaves

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- scattered around;
- 2) Undated receipt for \$450 received for rent for the month of September 2015 from the appellant; and,
 - 3) Receipt dated October 26, 2015 for \$450 received as rent for October 2015 from the appellant.

At the hearing, the appellant stated that:

- He relies on the information he provided in the Request for Reconsideration and his original request for a supplement as well as the Notice of Appeal.
- Contrary to the information provided by the property manager, the photographs show that a large tree fell on the roof to his suite on August 29, 2015. The photographs were taken the next day, after his friends had helped clear away the debris so that he would have clear access to his residence.
- On the evening of August 29, 2016, the insurance agent came to his residence, asked some questions and made him sign a legal document. He figured it was a claim for rent since the insurance adjuster told the appellant that the amount of \$550 would be covered for his rent.
- When the appellant talked to someone from the restoration company that came to the property, he said the insurance company was not paying for them to clear the tree debris.
- The property manager said he paid a neighbor to clear the debris but when the appellant talked to the neighbor, he said he was not in a rush and the appellant should have his friends clear it. Since his friends had to drive from another community, the appellant paid them each \$200, or \$400 in total. He did not get receipts from them, but he could. The appellant found out that the property manager paid his neighbor \$200 to cut up the tree and remove it from the roof.
- Since he thought the insurance company would pay for the rent, the appellant used the funds received from the ministry to pay for groceries and to pay his friends to clear away debris from the storm.
- There was some confusion over what happened on September 10, 2015 as the appellant had reported to the ministry that someone from the insurance agency had tried to deliver a cheque to him on this date to cover the rent; however, the insurance agent had not given them notice that he was coming and the appellant was not there. Although his girlfriend was there, the insurance agent would not give any information to his girlfriend.
- The roof on his residence is now leaking because of damage caused by the tree falling. The appellant has ongoing disputes with the property manager about repairs not being completed to his residence.
- On November 10, 2015, the appellant attended a dispute hearing with the Residential Tenancies Branch, the landlord did not attend and the eviction notice for September was overturned.
- He does not know if the landlord or the property manager received funds from the insurance company to cover his rent. He has paid his rent towards the end of each month and the landlord has not pursued an eviction proceeding.

Admissibility of additional information

The ministry did not raise an objection to the admissibility of the photographs or the receipts. The panel admitted the photographs as they corroborate information provided by the appellant at reconsideration and are, therefore, in support of information and records before the ministry at reconsideration, pursuant to Section 22(4) of the *Employment and Assistance Act*. The panel did not admit the receipts as they did not tend to substantiate information before the ministry at

reconsideration and, in the case of the September 2015 rent, contradict the information at reconsideration.

The ministry relied on its reconsideration decision. The ministry stated that:

- He is not aware of an emergency relief program through the ministry that would have a September 16, 2015 cut-off date. He suggested that perhaps the appellant was referring to the Provincial Emergency Program.
- If the appellant had requested a crisis supplement for the cost of clearing the tree debris so that he would have access to his residence, the ministry would look at whether the requirements in Section 57 of the EAPWDR were met. The ministry likely would question why the landlord and/or the insurance company were not ensuring that the appellant had access.
- The appellant had requested a crisis supplement specifically for his September 2015 rent.

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 rent costs, as the requirements of Section 57 of the EAPWDR were not met, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the appellant's circumstances.

Section 57(1) of the EAPWDR sets out the eligibility requirements which are at issue on this appeal for providing the crisis supplement, as follows:

Crisis supplement

57 (1) The minister may provide a crisis supplement to or for a family unit that is eligible for disability 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*.

Ministry's position

The ministry argues that the provisions of Section 57 of the EAPWDR allow for the ministry to provide a crisis supplement when all of the legislative criteria are met, including that the item or expense is unexpected, there are no alternate resources available, and failure to meet the expense will result in imminent danger to physical health. The ministry argued that while the appellant stated that he received information from the insurance adjuster that his rent would be paid for him and it was not, the appellant has not indicated that he discussed the issue of his rent with his landlord or negotiated payment through the insurance company. The ministry argued further that funds were issued to the appellant to pay his September rent and he chose to divert these funds for other purposes, including paying for take-out food for 2 weeks because his stove broke down, and for yard clean-up, and he needed to follow up with the landlord and the insurance company. The ministry argued that there is insufficient evidence to support "imminent" or immediate danger to the appellant's health as a result of failure to provide an additional supplement for September rent.

Appellant's position

The appellant's position is that his request for a supplement to cover the cost of his September 2015 rent meets all of the requirements in Section 57 of the EAPWDR. The appellant argued that receipt of the eviction notice was unexpected as a tree fell on his suite and an insurance adjuster said that "the insurance covers rent until repairs are completed." The appellant argued that the insurance did not cover removal of the tree from the entrance to his suite so he had to spend money to have his friends help him clear the walkway to his residence. The appellant argued that the property manager did not hire his neighbor to do the clearing until September 15, 2015. The appellant argued that he did not have the resources to pay September rent because he had to pay extra for food, he was only issued \$20 extra as a crisis supplement for take-out food for 2 weeks, and he had to pay his friends to immediately clear access to his suite due to his mobility issues. The appellant argued that a person with disability involving an eviction notice is at risk, is in imminent danger, and without means to seek financial (sic) or shelter that is suitable to wheelchair access and mobility issues regarding travel.

Panel decision

While clearing of tree debris due to an unexpected storm may have been required to provide access to his residence, the appellant did not submit a request to the ministry for a supplement for the amount he says he paid his friends for clearing and, instead, requested a supplement for his September 2015 rent. The appellant acknowledged that he used the September 2015 rent funds that had been provided to him by the ministry to pay his friends \$400 and also to purchase take-out food due to a loss of power to his residence. The appellant stated that he was relying on the statement by the insurance adjuster that the insurance company would pay his landlord to cover the appellant's September 2015 rent. Instead, the landlord issued an eviction notice dated September 8, 2015 for the September rent and it is not clear whether the insurance company subsequently issued any amounts to the landlord for September 2015 rent, but the appellant stated that no amounts have been received by him. The panel finds that the ministry reasonably determined the requirement to pay ongoing, monthly rent is not an unexpected expense and that the diversion of the funds to other purposes does not convert the rent expense itself into one that is unexpected.

Given that the ministry issued assistance to the appellant for September 2015 which included an amount for his September 2015 rent and it is not clear whether the landlord may have also received funds from the insurance company for September rent, the panel finds that the ministry reasonably concluded that there is insufficient information to show that there are no resources available to the appellant to pay September 2015 rent.

While the appellant argued that, as a person with a disability, he is at risk, is in imminent danger, and without means to seek shelter that is suitable to wheelchair access as soon as he receives an eviction notice, the panel finds that the ministry reasonably required evidence that the failure to meet the September 2015 rent expense places the appellant himself at imminent danger to his physical health. The appellant stated at the hearing that the September 2015 eviction notice was over-turned at a residential tenancy dispute hearing.

Conclusion

The panel finds that the ministry's reconsideration decision, which denied the appellant's request for a crisis supplement for the cost of September 2015 rent because the requirements of Section 57 of the EAPWDR were not met, was reasonably supported by the evidence and the panel confirms the ministry's decision.