



PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (the “ministry”) dated October 27, 2015 that determined that the appellant was not eligible for a crisis supplement to purchase a new hot water tank because the appellant did not meet all of the criteria required under section 57 of the *Employment and Assistance for Persons with Disabilities Regulation (EAPWDR)*. Specifically, the ministry determined that the need for the hot water tank was not unexpected, and that there was insufficient evidence to demonstrate that there were no resources available to meet the expense and to support a probability of immediacy that failure to obtain a new hot water tank would place the physical health of the appellant in imminent/immediate danger.

PART D – Relevant Legislation

EAPWDR section 57

PART E – Summary of Facts

The appellant was not in attendance at the hearing. After confirming that the appellant was properly notified, the hearing proceeded pursuant to Section 86(b) of the Employment and Assistance Regulation.

The documentary evidence before the ministry at reconsideration included the following:

1. A statement of estimates for the replacement of a hot water tank dated September 22, 2015.
2. An undated 2-page statement from the appellant's advocate.
3. The appellant's *Request for Reconsideration* signed and dated by the appellant on October 15, 2015. The appellant did not provide any reasons for requesting reconsideration.

In its section of the Request for Reconsideration, the ministry provided the following chronology: September 21, 2015: *"(The appellant) contacted the Ministry to advise that (her) hot water tank had stopped working, that it was approximately 16 years old. (The appellant) indicated that (she) had CIHR (Child in the Home of a Relative) but you were no longer receiving the Child Tax Benefit because the child had turned 18 years old. You had not accessed any alternative resources prior to contacting the Ministry but you informed the worker you would check with alternative resources prior to calling back. On September 22, 2015 you advised the Ministry the repair was going to cost \$2500.00."*

September 23, 2015: *"(The appellant) contacted (a supplier) and approved a replacement and installation of a hot water tank to the amount of \$1600 and stated to (the supplier) this would be taken care of by the Ministry and to give the Ministry the bill. When the Ministry worker was approached by (the supplier) with the bill, the worker advised the bill would have to be dealt with between (the supplier) and their client."*

The appellant's *Notice of Appeal* was signed and dated on November 2, 2015 and provided the following reasons for appeal: *"My grandson and I would be in imminent danger without hot water. It is everyone's basic human right to have hot water. I do not receive enough money to pay for a hot water tank. I also have house insurance, car insurance, taxes etc. to pay."*

In the *Reconsideration Decision* the ministry states that the appellant is in receipt of income assistance as a sole recipient. The appellant's monthly allowance is \$916.42 (\$375.00 shelter, \$531.42 support plus \$10.00 diet allowance). Her monthly shelter costs are \$752.28 (\$338.75 mortgage, \$137.15 property taxes plus \$276 utilities). The ministry also states that "Child in the Home of a Relative (CIHR) benefits are issued on behalf of your grandson in the amount of \$454.32."

At the hearing the ministry noted that there were two errors in the *Reconsideration Decision*. First, in the discussion regarding whether failure to obtain the item will result in imminent danger to health, the Decision refers to "new clothing" whereas the appellant has requested a crisis supplement to cover the cost of a new hot hot water tank. Second, in the discussion about whether there are alternate resources available, the Decision refers to the appellant paying "rent" whereas her shelter costs are for mortgage payments and utilities.

In response to a question from the panel, the ministry explained that the appellant was expected to explore alternate resources such as service groups in the community being approached by the appellant to determine whether they would be willing to cover all or part of the expense of the hot water tank. The ministry also confirmed that paying by credit card is not considered by the ministry to

imply that the appellant has “alternate resources” since the use of the credit card creates a debt for the appellant.

The panel noted that the *Request for Reconsideration* states that the appellant was notified on September 23, 2015 that her request for a crisis supplement had been denied. This was the same day that the appellant authorized the replacement of the hot water tank and advised the installer to bill the ministry. The ministry agreed that it could not be determined whether the appellant knew that her request had been denied by the ministry when she instructed the installer to bill the ministry.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's decision that determined that the appellant was not eligible for a crisis supplement to purchase a new hot water tank because the appellant did not meet the requirements of sections 57 of the EAPWDR was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. In particular, was the ministry reasonable in determining that the need for the hot water tank was not unexpected and that there was insufficient evidence to demonstrate that there were no resources available to meet the expense and to support a probability of immediacy that failure to obtain a new hot water tank would place the physical health of the appellant in imminent/immediate danger.

The relevant legislation is as follows:

From the EAPWDR:

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*.

(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;

(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.

(5) The cumulative amount of crisis supplements that may be provided to or for a family unit in a year must not exceed the amount calculated under subsection (6).

(6) In the calendar month in which the application or request for the supplement is made, the amount under subsection (5) is calculated by multiplying by 2 the maximum amount of disability assistance or hardship assistance that may be provided for the month under Schedule A or Schedule D to a family unit that matches the family unit.

(7) Despite subsection (4) (b) or (5) or both, a crisis supplement may be provided to or for a family unit for the following:

(a) fuel for heating;

(b) fuel for cooking meals;

- (c) water;
(d) hydro.

Appellant's Position

The appellant argues that the old hot water tank had not given her any problems and the need to replace it was unexpected. In addition, she argues that she has no alternate resources to pay for the replacement hot water tank. Finally, she argues that she and her grandson require a functioning hot water tank to maintain reasonable sanitation. Otherwise it would exacerbate her disability. She suffers from fibromyalgia, anxiety/depression, asthma and high blood pressure. For the fibromyalgia pain the appellant takes frequent hot water baths to relax and soothe the pain and for the asthma and congestion she uses the steam from the hot water as it helps the breathing.

Ministry's Position

In the *Reconsideration Decision*, the ministry argued that it is not unexpected that an appliance would stop working after many years of use. At the hearing the ministry noted that the hot water tank was 16 years old. The ministry also argued that there was insufficient evidence to support a probability of immediacy that failure to obtain the hot water tank will place the appellant's health in imminent danger. Finally, the ministry stated that the appellant receives \$375 per month for shelter allowance but pays \$752.26 for mortgage, taxes and utilities. Accordingly, the ministry argued that the appellant has been provided with assistance adequate to cover the cost of replacement of appliances but has chosen to "divert some of (her) support allowance to pay (shelter costs) that are significantly higher than (her) shelter allowance." In addition, the ministry argued that there was no indication that the appellant contacted alternate funding sources, such as local service groups in her community to explore whether they might be able and willing to cover all or part of the costs of replacement of the hot water tank.. Consequently, the ministry argued that the appellant has not met the criterion that there are no alternate resources available.

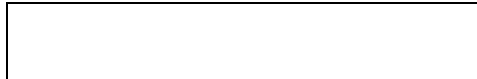
Panel Decision

It is not unreasonable to expect that a 16 year old hot water tank is likely to require replacement and the panel notes that the estimates provided by the installer of the replacement hot water tank provided a maximum of a 10 year warranty. Accordingly, the panel concluded that the ministry reasonably determined that the need for replacement of the hot water tank was not unexpected.

The panel also notes that the appellant did not provide any supporting evidence from a medical practitioner to confirm her medical conditions and the possibility that her health might be placed in imminent danger without the replacement of the hot water tank. Accordingly, the panel concluded that the ministry reasonably determined that there was insufficient evidence to confirm such imminent danger existed.

The panel recognizes that the appellant pays more in shelter costs than the shelter allowance she receives. Moreover, there is no evidence that the appellant has explored the availability of alternate resources such as support from local community service groups. Accordingly, the panel concludes that the ministry reasonably determined that the appellant had not demonstrated that alternate resources were not available.

Having reviewed and considered all of the evidence and the relevant legislation, the panel finds that the ministry's determination that the appellant has not met the requirements of section 57 of the



EAPWDR for the provision of a crisis supplement was a reasonable application of the applicable enactment in the circumstances of the appellant.

The panel therefore confirms the ministry decision.