

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of October 26, 2015 wherein the ministry denied the appellant a crisis supplement for a bed because the appellant did not satisfy all the statutory criteria as set out in section 57(1) of the Employment and Assistance for Persons with Disabilities Regulation (“EAPWDR”).

The ministry held that:

- a) the expense was not unexpected and the item was not unexpectedly needed;
- b) there were no alternate resources available to the family unit.

The ministry was satisfied that failure to obtain the item (bed) would result in imminent danger to the physical health of the appellant.

PART D – Relevant Legislation

EAPWDR - section 57

PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration:

- Three estimates for a bed from different suppliers;
- Letter dated September 17, 2015 from a medical practitioner (MP) which states that the appellant will be in imminent danger of immediate harm if she does not have a bed;
- Letter dated September 29, 2015 from the appellant's advocate providing argument on the appellant's need for a bed;

On July 16, 2015 the appellant contacted the ministry and requested a crisis supplement for furniture because she had moved into a new residence and had no furniture. The appellant advised the furniture that she had in her previous residence belonged to the landlord and not to her. On July 30, 2015 the appellant submitted three quotes for a new bed to the ministry office. On August 10, 2015 the ministry reviewed the request and noted that the appellant used to have a bed, however, at some point the bed was left exposed to the elements under a tarp. The appellant also told the ministry that she had checked with local resources, i.e. Salvation Army and a church, but they didn't have a bed.

At the hearing the appellant testified that she had done everything the ministry asked to obtain a bed. The appellant stated that in 1997 she was living in another community with her five children when she was evicted from her place for non-payment of rent. She stated that at that time she wrapped her bed (box spring and mattress) in plastic and stored it in a shed where her mother was living as she didn't have anywhere else to store it. A few years later she went back to her mother's place to get the bed and discovered the mattress had a smell like mould so she disposed of it. In February 2014 she was looking for a place to live and in July 2015 was asked if she wished to rent a bedroom, with a bed, for \$400 a month. She stated that since she didn't have a bed or any furniture and needed a place to live she moved into the house where she did all the cooking. She stated that as far as she knew everything was okay until she woke up one morning and saw the other tenants in the house packing their belongings. They told her that they were being evicted, that she had to leave but she could join them at the local shelter. She stated she was not aware of the rental agreement (month to month or lease) because she was only renting one room with a bed in the house, that all the furnishings belonged to the other tenants. The appellant stated she stayed in the shelter for about two weeks when she was able to contact her son and he invited her to come and live with him. She stated that he didn't have any furniture or a bed and she slept on the floor. The appellant stated that she had injured her back several years earlier when she was struck by a vehicle and although sleeping on the floor was very comfortable, she didn't have a choice. The appellant stated that she contacted the ministry to seek help in getting a bed. She had asked the other tenant's for a letter of support (regarding the eviction) but she was told they didn't want to get involved in her matters. The ministry told her to get three estimates for a bed and bring them into the office. Two days later the ministry called her back, the attitude had changed and the ministry wanted to know why she needed a bed and denied her request for assistance. Then one night, when she was trying to get up off the floor to use the bathroom, she lost her balance, struck and cut her head badly on a closet door and was admitted into hospital. The appellant stated she has several medical conditions and the hospital would not release her until she had a bed to sleep upon. The appellant testified that her son spoke to his landlord who found and gave him an old couch to sleep upon and the hospital released her.

The panel finds the appellant's testimony contains information that is in support of the information and record that was before the ministry at the time the reconsideration decision was made and therefore is admissible as evidence under Section 22(4) of the *Employment and Assistance Act* ("EAA").

The ministry relied on the statements in the Reconsideration decision.

Finding of Fact:

1. The appellant has not owned a bed or furniture for several years.
2. The appellant's last bed was damaged while in storage several years ago.
3. From February 2014 through July 2015 the appellant was living in a house with other people and was renting a furnished bedroom from them for \$400 a month.
4. The appellant was unexpectedly evicted from the house where she was living.
5. The appellant moved from her rental accommodation into a community shelter.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration wherein the ministry denied the appellant a crisis supplement for a bed because the appellant did not satisfy all the statutory criteria as set out in section 57(1) of the EAPWDR legislation.

The ministry held that:

- a) the expense was not unexpected and the item was not unexpectedly needed;
- b) there were no alternate resources available to the family unit.

The ministry was satisfied that failure to obtain the item (bed) would result in imminent danger to the physical health of the appellant.

The legislation considered:

EAPWDR

Crisis supplement

Section 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*.

Unexpected

The appellant's position is that she was renting a furnished bedroom in a home that was rented or leased by the other people that were living there. She argues that she woke up one morning to observe the other tenants packing their belonging and that was when she was told she had to move out because they were being evicted. She argues that she moved to a local shelter because she didn't have any to go and didn't have any money to rent a place of her own as rent in her community was very high. She argued that she didn't have any furniture not even a bed to sleep on. The appellant argued that the purchase of a bed was unexpected because the room she had rented came with a bed and she was not expecting to move.

The ministry's position is that there is no evidence to confirm the appellant was not aware of the requirement to move until the day of the eviction and the ministry was not advised of the eviction or the circumstance at any time.

Panel Decision

Section 57(1)(a) specifies that the crisis supplement must be for an "unexpected expense" or to obtain an item "unexpectedly needed". In the panel's view a bed is not generally an unexpected item

of need or an unexpected expense. However, in the appellant's circumstances of an unexpected move the need could be considered unexpected. The appellant testified that she has not had a bed for several years because in the past she was able to live with room and board provided or have short stays with family. In February 2014 the appellant moved into a new accommodation because a bed was provided with her rent and this was a place where she had lived for approximately 18 months before she was told to leave/evicted. The appellant's evidence is that she was not aware until that morning that she had to leave/was being evicted and there is no evidence before the panel to contradict the appellant's testimony. The ministry's position is that the appellant did not provide any evidence that she was not aware. The panel accepts the appellant's testimony that she did not have prior notice or knowledge about the eviction. The ministry also argued the appellant did not advise the ministry of the eviction at any time but the evidence at the hearing clearly demonstrates the appellant did contact the ministry to request a crisis supplement, which was denied, once she knew she was moving into her son's apartment and needed a bed to sleep upon. The panel finds there is no time limit written in the legislative criteria that the ministry would require immediate notice of the eviction and the panel finds that the appellant was very forthcoming with information at the hearing.

Based on the foregoing analysis the panel finds that the ministry's decision that the appellant did not have an unexpected expense or need an item unexpectedly was not reasonable.

No Resources

The appellant's position is that she has no resources available to her to buy a new bed. She argued that she did not have any warning that she was going to be evicted from her furnished bedroom and would need a bed. The appellant argued that she inquired with local resource agencies to try and obtain a bed without success. The appellant also argues that she did not have funds to rent her own accommodation nor could she find another place that she would rent that would provide her a bed.

The ministry's position is that the appellant did not provide sufficient evidence that she did not have any warning that she would have to move and therefore the ministry was not able to determine if the appellant had an opportunity to budget for a new bed. Also the ministry argued there is no evidence that the appellant could not have moved into another furnished residence. The ministry's position is that appellant's support allowance is intended to be used for household expenses such as a bed.

Panel Decision

In the panel's view, the support allowance usually is intended to be used for daily expenses and to obtain needed household items such as a bed, couch, chair or table that may be needed or replaced. The evidence is that the appellant tried local resource agencies to obtain a bed without success and initially the ministry accepted this position. In the reconsideration decision the ministry argued that the appellant did not provide evidence that she did not have prior knowledge of her eviction and the ministry was not able to determine if the appellant was able to budget for a bed. The panel accepts the appellant's argument regarding the circumstances surrounding the eviction. The ministry's position that the appellant had the option of finding another furnished residence is also not supported by the evidence as the appellant stated she could not afford to rent her own place nor could she find another place that she could rent that would provide her a bed. Since there is no evidence to the contrary, the panel accepts the appellant's testimony.

Based on the foregoing analysis the panel finds that the ministry's decision that the appellant did have resources available to obtain a bed was not reasonable.

Imminent Danger to the Appellant's Health

In the Reconsideration decision the ministry agreed that the appellant met this criterion.

Conclusion:

The panel finds that the ministry's decision that the appellant was not eligible for a crisis supplement to purchase a bed is not supported by the evidence and is not reasonable.

Therefore, the panel finds in favor of the appellant and rescinds the ministry's Reconsideration decision of October 26, 2015 pursuant to section 24(2)(b) EAA.