



PART C – Decision under Appeal

The Ministry of Social Development and Social Innovation's (the ministry) reconsideration decision dated 18 December 2015 determined that the appellant was not eligible for a crisis supplement for a mortgage payment of \$160.93 because the appellant did not meet any of the three criteria set out in s. 57(1) of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR). The ministry determined that the appellant did not face an unexpected expense, had alternate resources available and that failure to provide mortgage payment will not result in imminent danger to the physical health of the appellant.

PART D – Relevant Legislation

EAPWDR, section 57.

PART E – Summary of Facts

With the consent of parties, the hearing was conducted in writing pursuant to section 22(3) (b) of the *Employment and Assistance Act (EAA)*.

The following relevant evidence was before the ministry at the time of reconsideration:

- The appellant is a sole recipient of disability assistance whose file reopened in 2006.
- On 18 November 2015, the appellant attended the ministry's office and requested a crisis supplement of \$160.93 to pay her weekly mortgage due 20 November 2015. The appellant indicated that November 2015 was a 5-week month, that she was short of money and that she had no other resources to pay for that mortgage payment. On the same day, the ministry received the appellant's monthly declaration where she indicated she had borrowed \$180 to make her mortgage payment and interest.
- In her Request for Reconsideration sent to the ministry on 14 December 2015, the appellant indicated the following:
 - She has been receiving a monthly disability assistance of just over \$1100 that has remained unchanged since 2006.
 - She requested assistance from 4 different sources to help her pay for those expenses but was unable to secure any such assistance.
 - She borrowed \$180 on 13 November 2015.
 - She negotiated with her bank to deal with her overdraft.
 - She included a series of banking documents showing that she is in difficult financial situation and has a significant overdraft and had to pay \$5 fees for each of 2 mortgage payments in December 2015.
 - In November 2015, she had to pay her dentist over \$40 for an unexpected treatment.

In her submission to the tribunal dated 19 January 2016, the appellant provided the following additional evidence:

- Prescriptions from 2014 showing that the appellant did not have to pay any amount and 2 prescriptions from 2015 showing that the appellant had to pay over \$1 for each.
- A prescription from September 2015 that the appellant had to pay herself for over \$35.
- A doctor's prescription dated 23 October 2015 from the appellant's physician that the appellant has not filled for lack of resources.
- Statement from a chiropractor for treatments that occurred in June 2015 for over \$40.
- Receipt for therapy dated also in June 2015 for \$70.

The panel determined the additional documentary evidence was admissible under s. 22(4) of the EAA as it was in support of the records before the ministry at reconsideration and provided more information about the difficulty the appellant argued she faces regularly to meet her financial needs and corroborates her evidence at reconsideration.

In an email dated 4 February 2016, the ministry stated that its submission on this matter is the reconsideration summary.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's reconsideration decision that determined the appellant was not eligible for a crisis supplement for a mortgage payment of \$160.93 because the appellant did not meet any of the three criteria set out in s. 57(1) of the EAPWDR was a reasonable application of the legislation or reasonably supported by the evidence. The ministry determined that the appellant was not facing an unexpected expense, she had alternate resources available and failure to provide mortgage payment will not result in imminent danger to the physical health of the appellant.

In order to receive a crisis supplement under s. 57 of the EAPWDR, an applicant must meet all three of the criteria set out in subsection (1) – if the applicant does not meet any one of the three criteria, the crisis supplement will not be provided. Section 57 of the EAR provides as follows:

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:

...

(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, and

...

(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.

In her submission on appeal, the appellant argued that her monthly disability benefits have not changed since 2006 while at the same time the costs of living have increased significantly and she provided a series of news articles to that effect. Consequently, she indicated that her need for funds to pay for her mortgage was entirely expected. She took issue with the ministry's statement that she had other resources to pay for the expense since she tried to find such resources with numerous other people and agencies in vain and had to borrow money to pay for her mortgage. She indicated that she had a number of unexpected expenses in 2015, in particular the dentist, the chiropractor and therapy plus additional fees for her prescriptions. Because her disability benefits remained the same for 9 years, she can no longer meet ends and ended up having a significant overdraft in her bank account, causing even more hardship. She also argued that she tried in September 2015 to get some assistance from the ministry for some of those expenses but was denied and she had to use food money to pay for her medications. She finally argued that the ministry was unreasonable not to help her with that 1-week mortgage payment given all the extra costs she has to face.

The ministry argued that the appellant's weekly mortgage payment was not an unexpected expense and that 5-week months are not unexpected either. The appellant had been paying this mortgage since 2013 the ministry argued. Because the appellant borrowed money to pay for that mortgage payment, and because she was able to defer 4 more mortgage payments in January 2016, the ministry argued that she had other resources available to her. Finally, the ministry argued that the appellant had provided no information showing that failure to meet her mortgage payment would result in imminent danger to her physical health.

Panel decision:

The panel accepts the appellant's evidence that her benefits have not increased since 2006 while the cost of living has – this is public knowledge. However, the panel's jurisdiction is limited to determining whether the ministry's decision was reasonable, based on the evidence and the legislation and has no jurisdiction to determine whether the regulation is fair or should be reviewed.

Unexpected expense:

The appellant did not argue that this expense was unexpected – she had been paying this mortgage for years and had encountered this difficulty before. Her point is rather that her financial situation is deteriorating and she finds it is an increasing challenge to meet all her expenses. In her arguments she indicated other expenses that she thought were unexpected, for instance the dentist, but this appeal is limited to the reconsideration decision that deals with her weekly mortgage payment – nothing else. In other words, the panel cannot determine that because she had other "unexpected" expenses, the ministry was unreasonable in determining she was not eligible for a crisis supplement for this specific mortgage payment. The legislation is clear that the first requirement for the ministry to provide crisis assistance is that this specific expense must be unexpected and given the evidence provided, the panel finds that the ministry reasonably determined that the weekly mortgage payment was not an unexpected expense.

Resources available:

The panel acknowledges that the appellant is facing serious financial hurdles and the evidence

shows that she is struggling to keep her finances in order to the extent that she had a significant overdraft in her bank account. However, the evidence also shows that the appellant was ultimately able to pay her mortgage out of a loan she obtained, that she was also able to defer 4 mortgage payments in January 2016 and consequently she did in fact have resources available to her to meet that expense. Thus, the panel finds the ministry reasonably determined that the appellant did not demonstrate that she had no resources available to her to meet that expense.

Imminent danger to physical health:

The appellant provided much evidence in support of her appeal but none of that evidence dealt with the issue of whether the failure to meet that weekly mortgage payment would result in imminent danger to her physical health. The panel notes that *imminent* has a sense of urgency – i.e. impending or about to happen and in this matter no evidence was provided that the appellant would face such an eventuality in the immediate. There is no indication of what consequences would occur if she did not pay that one mortgage payment or that it would have any impact on the appellant's physical health. Thus, the panel finds that the ministry reasonably determined that it was not satisfied the failure to provide the funds to pay for that one-week mortgage payment would result in *imminent* danger to the appellant's physical health.

Conclusion:

For all those reasons, the panel finds that the ministry's reconsideration decision denying the appellant a crisis supplement for a mortgage payment was reasonably supported by the evidence and confirms the ministry's decision.