

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated May 11, 2016 which found that the appellant is not eligible for a crisis supplement to pay an outstanding Fortis BC bill as the appellant did not meet the criteria set out in Section 59 of the Employment and Assistance Regulation (EAR). The ministry was not satisfied the evidence established that:

- The need for the item or expense is unexpected;
- Failure to obtain the item will result in imminent danger to health; and,
- There are no alternative resources available to obtain the item or meet the expense.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR)– Section 59

PART E – Summary of Facts

The appellant is a recipient of income assistance as a single parent of 4 dependent children. She has Persons with Persistent and Multiple Barriers designation.

The evidence before the ministry at the time of the reconsideration decision included a Request for Reconsideration dated May 4, 2016.

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

- Fortis BC Notice of Disconnection dated February 29, 2016
- Fortis BC bill dated January 7, 2016
- Hand written letter from the appellant dated May 4, 2016 noting the awareness of having to pay the Fortis bill, that it would be split equally each month and that she had tried to borrow money to put towards the bill.
- A photo copy of a disconnect notice from Fortis BC via the appellant's brother.

Appellant's additional information

In her Notice of Appeal dated May 17, 2016, the appellant included:

- A copy of the reconsideration decision dated May 4, 2016 with notes.
- A letter dated May 17, 2016 from her brother stating:
 - A man approached the residence to turn off the gas
 - Fortis was contacted and the appellant's brother was told a security deposit and payment for gas used totaling \$960.83 was required.
 - A sum of \$480.42 was paid on the brother's part.
 - His sister, the appellant, didn't know anything about what was going on.
- A letter from the appellant in which she stated:
 - She didn't know about the gas bill.
 - If she knew about the gas bill she would have paid half.
 - She only found out when the Fortis employee appeared to turn off the gas.
 - This is nothing to mess with as it has to do with keeping their children warm, fed, bathed and clean.
 - The appellant and her brother are in the same boat, they are making equal payments on BC Gas and Hydro bills, and they just need the first part taken care of.

The appellant did not connect with the conference call at the 1 PM appointment time. The participants waited 10 minutes and then after confirming that the appellant was notified of the hearing, the hearing proceeded in accordance with section 86(b) of the Employment and Assistance Regulation. Part way through the hearing, the appellant did connect with the conference call; the hearing process was started again.

At the hearing the appellant's brother provided the following oral testimony acting as a witness for the appellant:

- He handled the bills for the house
- Thought Fortis and Hydro were the same company so was surprised to learn the Fortis bills

had not been paid

- Approached a Fortis employee who came onto the property and was informed about the disconnect order and was given a number to contact Fortis
- Since his mother moved the Fortis account is in his name

When asked questions by the panel and ministry representative the witness further added:

- His mother who had lived with him previously had taken care of the payment of all utilities.
- He had agreed to pay half the bill and that the other tenants would cover the other half
- That his sister, who was the other tenant, was aware of the gas bill after his reconsideration appeal, he thought he was to pay the entire bill. After the reconsideration decision his sister was then aware of the bill and was to be responsible for paying half.
- There was a third party who was to also pay towards the gas bill but they did not move in
- The gas remains disconnected.
- He and his sister do not have any other funds to pay the bill which remains outstanding. He is waiting for his sister's contribution pending the outcome of this appeal.

The appellant when asked to make a statement said:

- Her kids were sick as there was no hot water, dishes could not be cleaned properly and they were using her mother's residence for bathing purposes but that had to be stopped due to tenant complaints.
- She thought the ministry was paying all her utilities as her assistance income stub showed funds were being deducted for bills.

When asked questions by the panel and ministry representative the appellant added:

- She did not tell the ministry she would pay \$505.00 towards the gas bill but rather, half.
- She had not made payments as she was waiting for the ministry's decision on payments.
- She had no way of paying the outstanding bill.

At the hearing the ministry stated the appellant did not qualify for a crisis supplement for the following reasons:

- The gas bill is in her brother's name, not the appellant's.
- That the appellant did not meet the required three criteria as set out in section 59 of the EAR.
 - The need to pay for a service is not an unexpected expense even when monthly bills are not received.
 - Failure to obtain the item will result in imminent danger to health as there was insufficient evidence to support a probability of immediacy that failure to pay the outstanding Fortis gas bill would place the appellant's health in imminent danger or result in the removal of a child under the Child, Family and Community Service Act. and,
 - There are no alternative resources available to obtain the item or meet the expense as the shelter allowance supplied is intended to be used for day to day items such as utility costs and that there was no evidence there is a lack of resources available in her shelter allowance to budget for the Fortis BC gas bill.

When asked questions by the panel, the ministry added:

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- The ministry is paying the hydro cost for the appellant.
 - They were not paying the gas bill for the appellant as a request had not been made.
 - The ministry believed the costs for gas were the responsibility of the brother as they were not notified it was part of her cost.
 - There is an inconsistency between how the brother and sister's applications for assistance have been handled and that she has passed this information to the reconsideration branch to address but has not received any feedback.

Admissibility of Additional Information

The ministry did not object to the admissibility of the additional documents submitted at the hearing by the appellant. The panel considered that the Reconsideration documents of the brother and felt they corroborated the appellant's claim the ministry was not being consistent in addressing her request for a crisis supplement and also confirmed the amounts that are due to Fortis Gas BC.

The letter submitted by her brother, while supportive of her appeal, was somewhat contradictory of her earlier statements that she was unaware she had to pay for the Fortis Bill. The letter implied she was not aware of the need to pay the bill but outlined a sharing agreement for the Fortis Bill. The letter was not clear about when the appellant became aware she would have to pay part of the bill but certainly by the time they both spoke with the Fortis representative who came onto the property to disconnect the gas service, they were both aware of the requirement to pay for the gas bill.

The panel therefore placed minimal weight on the brother's letter in terms of clarifying when the appellant became aware of the need to pay for the gas bill.

The panel admitted this additional information as being in support of information and records that were before the ministry at the time of the reconsideration, in accordance with Section 22(4) (b) of the *Employment and Assistance Act*.

PART F – Reasons for Panel Decision

Panel decision:

The issue on appeal is whether the ministry's reconsideration decision, which found that the appellant is not eligible for a crisis supplement to pay an outstanding Fortis BC bill was reasonably supported by the evidence or was a reasonable application of the applicable regulation in the circumstances of the appellant. The ministry found that the evidence does not establish that the appellant met the criteria for allowing a crisis supplement as set out in Section 59 of the (EAR) 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

The ministry's position is the appellant should have been aware that utilities are an expected cost and that she is responsible for ensuring bills are kept up to date.

The appellant's position is that the expense is unexpected as she had not received a bill from Fortis Gas therefore was unaware of the expense.

The panel found that the ministry reasonably concluded that the appellant did not meet the requirements set out above in s. 59 (1) (a) of EAR as she should have been aware of or anticipated the utility cost of gas. As the agreement between the brother and sister was to share all utility costs, it would seem reasonable, as the account was in the brother's name, that an arrangement for equal payments should have been made.

Imminent danger to the physical health

The ministry's position is there was insufficient evidence to support a probability of immediacy that the failure to pay the outstanding Fortis Gas bill would place her health in imminent danger or result in the removal of a child under the *Child, Family and Community Service Act*.

The appellant's position is that as payment was not made, the gas was disconnected and as a result the entire house, which includes her basement rental where she and her four daughters live and the upstairs where her brother and his three children reside does not have heat or hot water which is a health concern.

The panel found that the ministry's position was not reasonably supported as required in s. 59 (1) (b) (i) of the EAR as the evidence supplied indicated a probable imminent danger to the family as heat and hot water for cleaning would not be available.

No Resources

The ministry's position is the support allowances issued to the appellant are sufficient enough to purchase day to day items such as utility costs. There was no evidence there was a lack of resources available in her shelter allowance to budget for her Fortis Gas bill.

The appellant's position is she does not have the funds and cannot borrow from others she knows as they do not have the funds as well.

The panel finds that the ministry was reasonable to conclude that appellant did not meet the requirements set out above in s.59 (1) (a) of the EAR as she should have been able to budget for the payment of utilities.

Conclusion

Having reviewed and considered all of the evidence and relevant legislation, the panel finds that the ministry's reconsideration decision which determined that the appellant was not eligible for a crisis supplement pursuant to Section 59 of the EAR was reasonably supported by the evidence, and therefore confirms the decision.