

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of April 28, 2016 wherein the ministry determined the appellant was not eligible for a crisis supplement for furniture because he did not meet all the legislated criteria under section 57(1) *Employment and Assistance for Persons with Disabilities Regulation* (“EAPWDR”).

The ministry was not satisfied that:

1. the appellant’s need to obtain furniture (bed) and household items was unexpected;
2. that he did not have resources available to the family unit to obtain the furniture (bed) or household items as stated in section 57(1)(a) EAPWDR; and
3. failure to meet the expense or obtain the furniture (bed) or household items would result in imminent danger to physical health of the appellant as stated in section 57(1)(b) EAPWDR.

PART D – Relevant Legislation

EAPWDR – section 57

PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration:

- Request for Reconsideration dated April 25, 2016.

The appellant is a sole recipient of income assistance. He was planning on moving when his opportunity arose and on March 21, 2016 he advised the ministry he was moving from a furnished residence to an unfurnished residence and requested a crisis supplement to purchase furniture and household items. The appellant had been living in a furnished rooming house for the past six years with other tenants. He stated he was having difficulties with the other tenants and becoming fearful. The appellant had requested a bed due to back problems. His request was denied.

In the Notice of Appeal the appellant stated that a move was planned and two weeks to the end of the month an opportunity happened when a place came available. He stated he had to move because it was apparent altercations were escalating and he had to move before violence erupted. The move at that time wasn't planned or thought out months before. He stated that the bed is necessary since he spends most of his time on the bed.

At the hearing the appellant stated he had been living in the same rooming house for approximately six years. He paid \$550 a month for a 10 x 10 room that was furnished with a bed. He was on a floor with five other tenants and they all shared a bathroom and kitchen. About six months ago two new tenants moved into rooms on his floor of the building and became very disruptive with their drinking. The appellant stated that over time arguments generated after the new tenants had been drinking or when they were asked to clean up their dirty dishes, etc. He stated the arguments also became more frequent and more heated and on one occasion the argument ended in a physical fight between some of the rooming house residents. He stated he was concerned about the drinking and that the arguments would escalate into further violence, so he would lock the door to his room because he did not feel safe at times.

The appellant stated that this move was not planned out, as the opportunity to move was unexpected. He stated that he did want to move and had been looking for another furnished suite because all he owned was a dresser. He stated that in mid-March he was talking with a friend who informed him that he was looking for a person to rent a bedroom where he was living and the appellant was welcome. The room was unfurnished. The appellant approached his landlord and asked if he would accept only a two-week notice period so he could move. The landlord agreed and at the end of the month the appellant moved into the residence with his friend. The appellant stated that in the two weeks prior to his move he went to the ministry for assistance with the move; he visited a number of local community agencies and obtained some household items but was unable to obtain a bed. He stated that one agency also gave him a \$25.00 voucher.

The panel found that the appellant's oral testimony provided additional information that was in support of the information and record that was before the ministry at reconsideration and accordingly, has admitted this information in accordance with s. 22(4) of the *Employment and Assistance Act*.

The ministry relied on the facts stated in the Reconsideration decision.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry decision that the appellant was not eligible for a crisis supplement under section 57(1) EAPWDR to purchase furniture and household items was reasonably supported by the evidence or a reasonable application of the legislation in the appellant's circumstances.

The ministry was not satisfied that:

1. the appellant's need to obtain furniture (bed) and household items was unexpected;
2. he did not have resources available to the family unit to obtain the furniture (bed) or household items;
3. failure to meet the expense or obtain the furniture (bed) and household items would result in imminent danger to physical health of the appellant as stated in section 57(1)(b) EAPWDR.

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 need or expense

The ministry's position is that the appellant was aware he was going to move from a furnished residence to an unfurnished residence and therefore would require furniture and household items. The ministry argued that the appellant did not provide information that his move was a sudden decision and therefore it is the ministry's position that the move could have been delayed until he was able to afford furniture or find another furnished residence.

The appellant's position is that his move was sudden and was not planned; rather that when he was talking with a friend he did not expect his friend to offer him a room to rent, albeit unfurnished. The appellant argued he did not feel safe where he was living and had to move because the arguments with new tenants were escalating, and had escalated to shoving and a fight between a couple of the residents. The appellant stated when he was in his room he locked the door. The appellant argued that he needed a bed because he spends most of his time on the bed.

Panel Decision

The evidence is the appellant was planning to move from a furnished residence where he had lived for the past 6 years but the move came sooner than he had expected because a new place became available. The evidence is the arguments with the new occupants in the building had escalated to physical violence and the appellant had become fearful for his safety.

The panel finds the evidence does not support the ministry position that the appellant's move was planned as he did not expect his friend to offer him a room to rent and he only had two weeks to obtain the household items he would need at his new residence.

Therefore, the panel finds the ministry was not reasonable in determining that the appellant's need for household furniture was not unexpected.

The panel also finds that the appellant had been living in the furnished room for six years and was not planning to move so quickly until his friend offered him a place, albeit unfurnished. The panel finds the appellant had two weeks to prepare for his move to a new residence, and therefore the ministry was not reasonable in determining that the appellant's expense for furniture and household items was not unexpected.

Alternate Resources

In the Reconsideration decision the ministry accepted that the appellant did not have alternate resources to obtain the furniture and household items. However, the ministry argued that the appellant's support allowance is intended to provide for daily living expenses such as furniture and household items.

The appellant argued that he tried several community agencies and could not find a bed and he did not have sufficient time on such short notice to save enough money to purchase a bed.

Panel Decision

The evidence is that the appellant satisfied the ministry that he did not have alternate resources to obtain a bed but receives a monthly support allowance, which he is expected to budget to provide for his daily living expenses. The evidence is that the appellant's move was unexpected and he only had two weeks to obtain his furniture and household items. During that time he attended a number of community agencies and obtained a number of household items, but was unable to obtain a bed. The ministry's position is that the appellant is expected to utilize his support allowance to meet his daily living expenses and the appellant's position is that he did not have sufficient time to plan for his move.

The panel finds that the appellant was able to obtain some of the items he needed but two weeks is not sufficient time for a person to save sufficient funds to purchase a bed.

The panel finds the ministry's decision that the appellant did have resources available to obtain a bed was not a reasonable application of the legislation in the circumstances of the appellant.

Imminent Danger to Physical Health

The ministry position is that the appellant had not provided sufficient information that his health would be in imminent danger because he did not have a bed for his back pain.

The appellant argued that he has a bad back and part of his designation as Persons with Disabilities (PWD) is because of his back. The appellant argued he spends most of his time on the bed and he needs a bed to relieve his back pain.

Panel Decision

In the panel's view the term "imminent" means immediate in nature and there is no information, medical or otherwise, to support imminent danger the appellant's physical health due to a lack of furniture (bed) or household items. The panel understands that having a bed to support your back if you are having back problems (pain) is beneficial but in the panels view this is not imminent. There is no medical evidence to support imminent danger to physical health.

At the hearing the ministry representative did not make any comment on the medical condition of the appellant's PWD status relating to the appellant's back. The appellant's position is that his designation as a PWD is, in part, because of his bad back. There is no medical evidence before the panel on the condition of the appellant's back.

The panel finds there is insufficient evidence to demonstrate, on a the balance of probabilities, that failure to obtain the requested crisis supplement for a bed (furniture and household items) will put the appellant's physical health in imminent danger. Accordingly, the panel finds that the ministry was reasonable in determining that the appellant has not satisfied the legislative criterion related to "imminent danger to physical health".

Conclusion

Since the appellant did not satisfy all the legislated criteria in section 57 of the EAPWD Regulation, the panel finds that the ministry's decision to deny the appellant a crisis supplement for furniture and household items was a reasonable application of the applicable enactment in the circumstances of the appellant. The ministry's decision is confirmed.