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PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of May 9, 2016 wherein the ministry denied the appellant a crisis supplement for shelter (rent) because she did not satisfy all three statutory criteria as set out in section 57(1) of the Employment and Assistance for Persons with Disabilities Regulation (“EAPWDR”).

The ministry was not satisfied that:

1. the need to pay rent each month is an unexpected expense;
1. there are no alternate resources available to the family unit, and
2. failure to meet the expense would result in imminent danger to physical health.

PART D – Relevant Legislation

EAPWDR, section 57

PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration:

- 10 day Notice to End Tenancy dated April 3, 2016 for non-payment of rent due April 1, 2016. The Notice indicates the tenants are the appellant and another person, who she indicates is her son. The rent is \$700 a month and must be paid by April 13, 2016. ;
- Notice of Direct Request Proceeding under Residential Tenancy Branch for Order of Possession/Monetary Order regarding the unit being rented by the appellant and her son. The Notice is in the son's name only;
- 10 day Notice to End Tenancy dated April 20, 2016 for non-payment of rent due April 1, 2016. The Notice indicates the unit is being rented by the appellant and her son. The rent is \$700 a month and if not paid by April 30, 2016 the tenant must move out and vacate the premises.
- Request for Reconsideration dated May 5, 2016.

This is a written hearing.

In January 2016 the appellant was issued a crisis supplement of \$375.00 to pay her outstanding rent as she had used her rent money to travel back and forth to another province due to several deaths in the family.

On April 18, 2016 the appellant requested a crisis supplement to pay April rent. The appellant stated she had used her funds to travel to visit a relative who was sick and had passed away. The appellant provided the employment and assistance worker (EAW) with a copy of her eviction notice.

On April 21, 2016 the appellant confirmed to the EAW that she had not attempted to negotiate a payment plan with her landlord or attempted to access alternate resources of funding. The appellant told the EAW she would use her CPP funds and obtain a job.

On May 2, 2016 the appellant again contacted the ministry and again requested a crisis supplement for shelter. The appellant advised she had received another eviction notice for non-payment of April rent. The appellant stated she had spent her funds on her addictions and do not have any money left to pay her rent. The appellant also stated she was not able to obtain assistance from local community resources.

In section 3 of the Request for Reconsideration dated May 5, 2016, the appellant related her personal circumstances regarding her past and the impact that is having on her mental and physical health. The medication that she was taking she stated is no longer effective which has led to her drug addiction. She stated that because of her situation she needs an advocate for herself and her son. On May 4, 2016 she received an Order of Possession/Monetary Order and was told by her landlord that he will have a bailiff throw them out in 1 or 2 days (Friday, May 6, 2016).

In her appeal submission she again related her personal circumstances regarding her health and the impact that is having on her finances. She also stated that her past association with the criminal element makes her rent an unexpected expense and this association puts her and her sibling in imminent danger of harm or even death. The appellant also related her past upbringing and how this has left her with mental health issues so she is not always able to fend for herself against these criminal types. She states that since moving back to BC her mental state is much worse.

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She submits that she does not have alternate resources available to her to cover her rent. She stated she took her eviction notice and bank statements to one community resource and was denied assistance because she told them about her addiction. She submits that her mental state will not allow her to explore that resource again for the way that she was treated. She submits she has been dealing with her addictions and has been sober for six months and is considering entering a rehab center.

The appellant also submitted three receipts marked:

1. Dated May 30, 2016 for \$200.00 issued to appellant's son;
2. Dated May 9, 2016 for \$700 (cash) for April rent issued to appellant's son.
3. Dated May 28, 2016 for \$500.00 issued to appellant's son.

The panel finds that the appellant's reference to her past association with a criminal element and the affect that has had on her and the three receipts she attached with her appeal submission is information that was not before the ministry when the reconsideration decision was made. Therefore, the panel finds this information is not admissible as evidence as information that is in support of the information and record that was before the ministry at reconsideration as set out under section 22(4) *Employment and Assistance Act (EAA)*.

The panel finds the appellant's reference to her past upbringing and how this has left her with mental health and addiction issues is consistent with, and therefore in support of, the information before the ministry at reconsideration and was admitted pursuant to section 22(4) of the EAA. .

The ministry's submission is the Reconsideration decision.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's determination that the appellant was not eligible for a crisis supplement for shelter (rent) under section 57(1) EAPWDR was either a reasonable application of the legislation or reasonably supported by the evidence. The ministry determined that she did not satisfy all three statutory criteria as set out in section 57(1) EAPWDR.

The ministry was not satisfied that:

1. the need to pay rent each month is an unexpected expense;
2. there are no alternate resources available to the family unit, and
3. failure to meet the expense would result in imminent danger to physical health.

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 Expense

The ministry's position is that paying rent is not an unexpected expense.

The appellant's position is that she had to spend her funds on her addictions.

Panel Decision

The evidence before the panel is that the appellant received two eviction notices for non-payment of her April rent due April 1, 2016. The evidence is she advised the ministry she paid her April rent with CPP funds; then advised the ministry she received an eviction notice for non-payment of May's rent due May 1, 2016. There is no eviction notice before panel issued to the appellant for non-payment of rent for May 2016. The evidence before the panel demonstrates the appellant knows the rent needs to be paid in paying her April rent and therefore the ministry's decision that rent is not an unexpected expense was reasonable.

Alternate Resources

The ministry's position is that the support allowance is intended to be utilized for shelter costs, rent. The ministry argued the appellant chose to divert some of these funds to cover her travel costs or for her addiction and this does not change the fact that the ministry provided the money to assist with her shelter costs.

The appellant argued she tried to obtain assistance from community resources but was denied. She also argued that she had spent her money travelling to see relatives who were either sick or had died and because of her addiction she doesn't have any money to pay her rent.

Panel Decision

The evidence before the panel is that the appellant utilized her CPP for May 2016 to pay her outstanding rent for the month of April 2016 and that she chose to use some of her disability assistance for travel and her addiction.

The panel finds the ministry's decision that the appellant had alternate resources available to pay her rent was reasonable.

Imminent Danger to Physical Health

The ministry's position is there is insufficient evidence to support the probability that her failure to obtain a crisis supplement for rent to provide her with additional funding will result in imminent danger to the physical health of any person in the family unit. The ministry also argued that obtaining the crisis supplement would not resolve her situation as her landlord has obtained an Order of Possession/Monetary Order.

The appellant's position is that, in her past, she suffered many tragedies which led to her addiction and she feels she is misunderstood because of these issues.

Panel Decision

The panel finds there is insufficient evidence to support that the appellant's physical health would be in imminent danger if she was not provided with a crisis supplement for rent.

The panel also finds that the removal of a child cited in section 57(1)(b)(ii) EAPWDR does not apply in these circumstances.

The panel finds the ministry's decision, that the eligibility criteria of imminent danger to the physical health of any person in the family unit, has not been met was reasonable.

Conclusion

The panel finds that the ministry's decision to deny the appellant a crisis supplement for rent was reasonably supported by the evidence and confirms the decision.