

PART C – Decision under Appeal

The decision under appeal is the May 24, 2016 reconsideration decision of the Ministry of Social Development and Social Innovation (“Ministry”) in which the Ministry denied the Appellant’s request for a crisis supplement for a new bed on the basis that the Appellant did not meet the criteria set out in section 57(1) of the *Employment and Assistance for Persons with Disabilities Regulation* (“EAPWDR”). In particular, in its reconsideration decision, the Ministry found that, based on the information provided by the Appellant, the Ministry was unable to determine that the Appellant’s need for a bed was an unexpected expense or that he did not have the resources to purchase a bed on his own, and the Ministry was not satisfied that failure to provide the Appellant with the funds for a bed would result in imminent danger to his physical health.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) section 57(1).

PART E – Summary of Facts

With the consent of the parties, the appeal hearing was conducted in writing in accordance with s. 22(3)(b) of the *Employment and Assistance Act*.

The Appellant has been designated a person with disabilities and receives monthly disability assistance totaling \$1,111.42 (assistance plus shelter allowance plus monthly nutritional supplements). The Ministry's reconsideration decision notes that the Appellant does not have a history of receiving crisis supplements. On March 17, 2016, through a support worker, the Appellant requested crisis funds for a bed. The support worker advised the Ministry that the reason for the crisis supplement request was that the Appellant's bed was falling apart and hurting his back. On March 31, 2016, the Ministry denied the Appellant's request on the basis that a bed worn from normal wear and tear was not an unexpected expense (the "Original Denial"). The Appellant submitted a request for reconsideration April 25, 2016.

The information before the Ministry at reconsideration included the Appellant's handwritten submission dated April 22, 2016, in which he wrote that he believed that "the expense/need is unexpected as the damage to the bed is due to a rodent issue in the home" and that he would provide further evidence of this "in attached paperwork." The Ministry noted in the reconsideration decision that the Appellant had not provided any further information regarding the rodent issue at the time of the reconsideration, May 24, 2016.

With his Notice of Appeal dated June 1, 2016, the Appellant attached a one-page written submission dated June 1, 2016, as well as a letter addressed to the Ministry dated May 20, 2016 from the maintenance manager of the building in which the Appellant lives. In his submission, the Appellant set out the following testimony related to his appeal:

- He is desperately in need of a new bed as his old one has become completely unusable as a result of a rodent (mouse) infestation in his suite. The mice got inside the box spring and mattress and have eaten away at the material and, as a result, the bed has come apart to the point where the Appellant no longer feels safe sleeping in it. He has found mouse urine and droppings on the mattress and bedding, which makes his bed unhealthy to use.
- He indicated that there are springs sticking out of the mattress and making holes in his bedding, which is hurting his back and preventing him from having a good night's sleep and causing a lot of stress and anxiety.
- He indicated that as he is on disability and currently unable to work, he is not able to take on the expense of replacing the bed himself.
- He indicated that he had requested building maintenance to address the mouse infestation and that as of May 2016, the issue has been resolved and he attached a letter from building maintenance to confirm this.

In the letter from the building maintenance manager dated May 20, 2016, the writer confirms that the Appellant's apartment "had a rodent infestation, which is now properly resolved." The writer indicates that the work on the apartment was finished May 11, 2016, that he had sealed the holes into the apartment where the mice were entering and exiting, and used poison and traps, and that as of May 11, 2016, no rodents had been sighted in the Appellant's apartment.

In his submissions on reconsideration, the Appellant had indicated that the reason he required a new bed was because of a rodent infestation and the Ministry had noted this in the reconsideration decision. In its written submission dated June 28, 2016, the Ministry indicated that it had reviewed the additional information supplied by the Appellant in his written submission on appeal, together with the May 20, 2016 letter from the building maintenance manager. The Ministry noted that at the time of the reconsideration decision, there was no evidence to support the Appellant's claim that he needed a new bed due to a rodent infestation and "the information regarding the rodent infestation and how it had destroyed and soiled [the Appellant's] mattress that has now been provided with his written submission was not before the ministry at the time of the reconsideration." In its submission, the Ministry wrote that, "had this information been provided with [the Appellant's] request for reconsideration, it may have resulted in the ministry making a different decision regarding his eligibility for a crisis supplement for a bed."

The panel admits the Appellant's written testimony in his June 1, 2016 submission, together with the May 20, 2016 letter from the maintenance manager of the Appellant's apartment, under section 22(4)(b) of the *Employment and Assistance Act* as written testimony and information in support of information that was before the Ministry at the time the decision under appeal was made.

PART F – Reasons for Panel Decision

The issue to be decided is whether the Ministry's reconsideration decision denying the Appellant's request for a crisis supplement for a bed on the basis that he did not meet the criteria set out in section 57(1) of the *EAPWDR* is reasonable.

The criteria to be applied by the Ministry on a request for a crisis supplement are set out in section 57(1) of the *EAPWDR* as follows:

- (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 ...

Submissions

The Appellant's position is that he meets the eligibility criteria to receive a crisis supplement for a bed. In his written submissions on appeal, the Appellant argues that due to the rodent infestation in his apartment, his mattress and box spring were destroyed, and that this is an unexpected expense. He argues that as he is on disability assistance and cannot work, he does not have resources to obtain a new bed himself. He also argues that given the state of the mattress and box spring, sleeping on his bed is unhealthy and unsafe, and causes his back to hurt, resulting in him not being able to sleep and increasing his stress and anxiety.

In the reconsideration decision, the Ministry noted that the Appellant had indicated he needed a new bed as a result of a rodent infestation, which differed from the reason indicated by the support worker in the original request (that is, that the bed was worn out). On reconsideration, the Ministry determined that because the Appellant had not provided further information about the rodent issue, the Ministry was unable to determine that the Appellant's need for a bed was an unexpected expense (a criteria set out in subs. 57(1)(a)). The Ministry noted that, although the Appellant's advocate had advised he was unable to get a bed from a social service agency, the Appellant had not provided any information to indicate that he did not have any savings to put toward the purchase of a bed, or that he had exhausted all community resources to get a bed for free or help offset the costs of a bed. For this reason, the Ministry was unable to determine that the Appellant did not have the resources to purchase a bed on his own, a criteria set out in subs. 57(1)(a).

In its reconsideration decision, the Ministry indicated that the Appellant had not provided any information that his physical health is in imminent danger, only that his back was hurting as a result of sleeping on his bed, which is falling apart. According to the Ministry in its reconsideration decision, "imminent" "denotes a sense of danger" and accordingly, the Ministry on reconsideration was not satisfied that failure to provide the Appellant with the funds for a bed would result in imminent danger to his physical health, the criteria set out in subs. 57(1)(b)(i).

Panel's Decision

In order to receive a crisis supplement under section 57 of the EAPWDR, an applicant must meet all three of the criteria set out in subs. 57(1). The panel will consider each of these in turn.

(1) The need for the crisis supplement is unexpected (s. 57(1)(a))

The Appellant advised the Ministry in his submissions on reconsideration that he needed a crisis supplement for a new bed as a result of a rodent infestation and that he would provide further information confirming the infestation. The Ministry on reconsideration found that it could not determine whether the Appellant's need was unexpected. As acknowledged by the Ministry in its submission on the appeal, had the information regarding the rodent infestation and how it had destroyed and soiled the Appellant's mattress been provided with his request for reconsideration, it may have resulted in the Ministry reaching a different decision regarding his eligibility for a crisis supplement for a bed. The information in the May 20, 2016 letter confirms that the Appellant had a rodent infestation in his apartment at the time of his request for a crisis supplement and supports his argument that the rodent infestation had rendered his bed unusable and that his need for a new bed was unexpected. Accordingly, the panel finds that the Ministry's conclusion that it could not determine the Appellant's need for a bed was an unexpected expense as required by subs. 57(1)(a) of the EAPWDR is not reasonably supported by the evidence.

(2) The applicant/appellant is unable to meet the unexpected expense (s. 57(1)(a))

In the reconsideration decision, the Ministry noted that although the Appellant's advocate advised that he was unable to get a bed through one community resource, the Appellant had not provided any information to indicate that he did not have any savings to put toward the purchase of a bed or that he had exhausted all community resources to get a bed for free or at least help offset the costs. For this reason, the Ministry found it was unable to determine that the Appellant does not have resources to purchase a bed on his own, as required under subs. 57(1)(a). In his submissions on appeal, the Appellant asserts that because he is on disability assistance and is currently unable to work, he is unable to take on the unexpected expense of purchasing a new bed.

The panel notes that in the Original Denial, the Ministry wrote that the Appellant's support worker "indicated that [the Appellant] had contacted local resources without success." There is a discrepancy between the evidence noted by the Ministry on its Original Denial (indicating that the Appellant and/or his support worker had contacted more than one community resource to obtain a bed, but without success) and the evidence relied on by the Ministry in the reconsideration decision (that the Appellant and/or his advocate had contacted only one community resource and had not exhausted all community resources to see if he could obtain a new bed).

Accordingly, given the discrepancy in the evidence on which the Ministry based its Original Denial and its reconsideration decision, the panel finds that the Ministry's determination that it could not determine that the Appellant does not have the resources to purchase a bed on his own as required by subs. 57(1)(a) was unreasonable.

(3) Failure to provide the crisis supplement will result in imminent danger to the physical health of the applicant/appellant

The panel notes that in the Original Denial, the Ministry found that the Appellant's request for a crisis supplement for a new bed met the requirement of subs. 57(1)(b) – that failure to provide the crisis supplement for a new bed would result in imminent danger to the Appellant's physical health. In contrast, in its reconsideration decision, the Ministry noted that the Appellant had not provided any information that his physical health was in imminent danger, only that his back was hurting as a result of sleeping on his bed, which is falling apart. According to the Ministry's reconsideration decision, the word "imminent" in the subs. 57(1)(b) criteria "denotes a sense of danger."

In his submissions on appeal, the Appellant indicates that as a result of the rodent infestation in his apartment and the rodents in his mattress and box spring, his bed is "completely unusable." In its submissions on appeal, the Ministry characterized the Appellant's information as supporting his claim that he needs a new bed as the rodent infestation has "destroyed and soiled" the Appellant's mattress. The Ministry does not dispute that without a crisis supplement to replace his destroyed mattress and box spring, the Appellant will not have a bed to sleep on. Accordingly, the panel finds unreasonable the Ministry's determination in its reconsideration decision that the Appellant had not met the criteria of subs. 57(1)(b), that is, that failure to provide a crisis supplement for a bed to replace the bed destroyed by rodents would result in imminent danger to the Appellant's physical health.

Conclusion

As the panel has found unreasonable the Ministry's determination that the Appellant did not meet the three criteria set out in subs. 57(1) of the EAPWDR, the panel therefore rescinds the Ministry's reconsideration decision.