

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (the Ministry) reconsideration decision made under section 59(1) of the *Employment and Assistance Regulation* and dated July 19, 2016, that denied the appellant's request for a crisis supplement for shelter for the month of July, 2016, on the grounds that the Appellant did not show that the crisis supplement was for an unexpected need or an unexpected expense, did not show that there are no alternate resources available, and did not show that failure to meet the expense will result in imminent danger to the Appellant's physical health,

PART D – Relevant Legislation

Employment and Assistance Act (EAA), Section 4
Employment and Assistance Regulation (EAR), Section 59(1)

PART E – Summary of Facts

The Appellant applied for a crisis supplement for shelter when moving from one rented accommodation to another.

The evidence before the Ministry at the time of the Reconsideration consisted of:

A. A Request for Reconsideration dated July 4, 2016 with

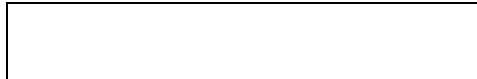
- attached statement saying the Appellant
 - has not received her “shelter” from her former landlord,
 - called the Ministry and got denied emergency shelter,
 - identified her new landlord and
 - had filled out a rental form directing that the shelter payment is to be paid directly to the new landlord

B. An undated letter addressed to “to whom it may concern” advising that room and board should be paid directly to the landlord

C. An attached “shelter information” form dated June 22, 2016 setting out the amount of the monthly rent, among other things

D. Statements

- that the Appellant is a single person in receipt of Employment and Assistance benefits, who is requesting a reconsideration of a ministry decision to deny a crisis supplement for shelter
- that the Appellant call the ministry on June 21, 2016 to advise she had moved, would collect June rent from her previous landlord because that person had been paid by direct deposit
- that the Appellant would submit a new shelter document
- that the employment and assistance worker cancelled the rental allowance and stopped payment for rent and hydro
- that on June 24, 2016 the Appellant faxed a note with a shelter document for room and board effective June 22, 2016 in a specific amount
- that on June 27, 2016 the Appellant called the ministry asking if it had her shelter update document on file, and confirming she wanted her rental allowance to be paid directly to her new landlord
- that on June 30, 2016 the Appellant contacted the ministry advising that her former landlord would not pay the July rent back to her
- that on June 30, 2016 the customer service worker confirmed the old landlord had had cashed the rent cheque
- that on June 30, 2016 the Appellant asked for a crisis supplement for July rent for the new landlord, and told the ministry she had already moved
- that the ministry considered the request and denied it on the grounds that while the Appellant was eligible for assistance, required the supplement to meet the expense as she had no resources available with which to meet the expense, and that without the supplement the Appellant will result in imminent danger to the Appellant’s physical health, she did not meet the requirement of the expense being unexpected, as failing to plan the move in advance resulting in the rental subsidy being sent to the old landlord was not unexpected.



E. An “Integrated Case Management Decision Report” identifying the Appellant, the decision date of July 4, 2016, the type of crisis supplement sought, and noting it is sought for “one time”, with the Decision Report stating that the outcome is the Appellant is not eligible

PART F – Reasons for Panel Decision

ISSUE

The issue is whether the Ministry of Social Development and Social Innovation's (the Ministry) reconsideration decision made under section 59(1) of the *Employment and Assistance Regulation*, and dated July 19, 2016, which denied the appellant's request for a crisis supplement for shelter for the month of July, 2016, on the grounds that the Appellant did not show that the crisis supplement was for an unexpected need or an unexpected expense, did not show that there are no alternate resources available, and did not show that failure to meet the expense will result in imminent danger to the Appellant's physical health, was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the Appellant.

RELEVANT LEGISLATION

Employment and Assistance Regulation (EAR), section 59(1)

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*.

JURISDICTION

The panel's jurisdiction to hear the Appeal is pursuant to section 19(1)(a) of the *Employment and Assistance Act*.

General Scheme of the Legislation

The general scheme of Section 59 of the *EAR* is that an individual may receive a crisis supplement if three criteria are met. The first is that the Minister may provide a supplement if it is required to meet an unexpected expense or to obtain an item unexpectedly needed (section 59(1)(a) *EAR*). The second is that the person is unable to meet the expense or obtain the item because there are no resources available to the family (section 59(1)(a) *EAR*). The third is that the Minister must consider that failure to meet the expense or obtain the item will result in either imminent danger to the person's physical health or removal of a child under the *Child, Family and Community Service Act* (section 59(1)(b) *EAR*).

Parties' Positions at Appeal

Appellant's position

As the Appellant did not attend the appeal, her representations in the Notice of Appeal were the only statement of her position considered. Those were:

- Her statement that July's rent was sent to the old landlord
- The old landlord refused to give the July rent back
- The Appellant was currently sleeping in a tent

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- The Appellant had not received anything, by which the tribunal understands to mean she had received no money.

Ministry's Position

The Ministry relied on the Reconsideration Decision, and stated in addition that:

- On July 4, 2016 the Appellant called the Ministry to say that she was staying at the old residence for the month of July
- On August 5, 2016 the Appellant called the Ministry to say that she had moved into her new residence
- That in fact the Appellant stayed at her old residence for July 2016, for which her rental subsidy was paid, and then in August 2016 moved to her new residence, for which her rental subsidy was paid
- That the Appellant was, in the end result, not "shorted" of her rental subsidy.

Additional Evidence

The Ministry's statements concerning the telephone calls of July 4 and August 5 and evidence that the rent was paid for the old residence lived in by the Appellant in July 2016 and for the new residence in August 2016, are additional evidence. Pursuant to the *Employment and Assistance Act* Section 22 (4)(b) the panel admits these statements as oral testimony in support of the information and records that were before the Minister when the decision being appealed was made, and specifically in support of the evidence as to what rent was paid, and to whom, and for what time periods.

The panel notes that while the Appellant told the Ministry on July 4, 2016 that she would be staying at the old residence for the month, her Notice of Appeal is dated July 20, 2016, and in it she states the July rent was sent to the old landlord, who did not want to give it back, and that she was sleeping in a tent.

ANALYSIS

Section 59(1)(a) EAR – Unexpected Expense

The first part of the sub-section requires the Appellant to show that the shelter expense for which she seeks a supplement is unexpected.

Ministry's Position

At reconsideration, the Ministry's position was that the old landlord's keeping the rent money was not unexpected. At the appeal, the Ministry maintained the same position, with the additional evidence that the Appellant in fact stayed at the old accommodation during July 2016, with the implication being that the money was properly paid to the landlord, and there was no shortfall in the Appellant's subsidy.

Appellant's Position

At reconsideration, the Appellant stated that her rent money had been paid to her old landlord, who refused to return the money.

Panel Finding

If the Appellant had in fact moved and not stayed in that accommodation during July, 2016, the question of whether or not the old landlord had wrongfully kept the rent money and whether such an action was expected or unexpected would have arisen.

The panel finds that the Appellant lived in her old accommodation for the month of July, 2016, and did not move into her new accommodation until August, 2016. The panel finds that therefore there was no unexpected expense. The panel finds that the Ministry was reasonable when it determined at reconsideration that the Appellant had no unexpected expense

Section 59(1)(a) EAR – Inability to Meet an Expense Due to Lack of Resources

The second part of the subsection requires the Appellant to show that she lacks resources with which to meet an unexpected expense.

Ministry's Position

The Ministry's position at reconsideration was that the Appellant failed to show that she had no alternate resources with which to meet an unexpected expense.

Appellant's Position

The Appellant presented no evidence to the Reconsideration Officer as to whether she did or did not have any resources with which to meet the expense.

Panel Finding

As the Appellant presented no evidence at reconsideration that she had no resources with which to meet an unexpected expense, the panel finds that the Ministry was reasonable when it determined at reconsideration that the Appellant had not shown a lack of resources available with which to meet the expense, and therefore did not satisfy this requirement.

Section 59(1)(b) EAR – Failing to Meet an Unexpected Expense will result in Imminent Danger

Ministry's Position

The Ministry's position at reconsideration was that there was no evidence as to how failure to receive the crisis supplement will result in imminent danger to the Appellant's physical health.

Appellant's Position

The Appellant presented no evidence at reconsideration as to how her physical health would be in imminent danger if she did not receive the crisis supplement. At most she said she was living in a tent.

Panel Finding

The panel notes that there was never an issue with respect to removal of a child so that the second sub-section of section 59(1)(b), dealing with removal of a child under the *Child, Family and Community Service Act*, does not arise.

The panel observes that this is summer, and living in a tent can not, without more evidence, be considered to present a danger to physical health. As the Appellant presented no evidence at all about her health at reconsideration, the panel finds that the Ministry was reasonable when it

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determined at reconsideration that the Appellant had not shown that her health was in imminent danger.

Further Panel Finding

The evidence on Appeal clarified that the Appellant was not in fact short of rent, as she stayed in her old residence during July, 2016, for which the rental subsidy had been paid, and then in August 2016, moved into her new accommodation, again for which rent had been paid.

The panel finds that the Ministry's decision in denying the Appellant a crisis supplement was a reasonable application of the evidence in the circumstances of the Appellant and was reasonably supported by the evidence.

The panel confirms the Ministry decision and the Appellant is not successful in her appeal.