

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision dated January 12, 2016, wherein the ministry denied the appellant a crisis supplement for a furnace. The ministry found that the appellant did not satisfy all three statutory criteria for a crisis supplement as set out in section 57 (1) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). The ministry held that

1. the expense was not unexpected;
2. it is not established that there are no alternate resources established;
3. failure to obtain a crisis supplement for a new furnace does not result in imminent danger to the appellant’s physical health or to the removal of a child under the *Child, Family and Community Service Act*.

PART D – Relevant Legislation

Section 57 of the EAPWDR

PART E – Summary of Facts

The appellant receives disability assistance as a single parent with 4 dependent children.

Her hydro bill increased from \$108 to \$145.

2 quotes for a new furnace were provided – one for \$10698.52 and one for \$6252.

The appellant had indicated that her 20 plus year old furnace was no longer working and needed to be replaced due to the risk of carbon monoxide poisoning. Electric heaters have been in use as an alternate heat source which has increased her hydro bills. There was no heat in the basement and the possibility of pipes freezing. She has explored the RRAP (Residential Rehabilitation Assistance Program) and the option of remortgaging; RRAP has no funding available and the bank will not remortgage because she is not employed.

In her request for reconsideration the appellant wrote that she has 4 children and no heat, and her place gets very cold. She has no funds and cannot get the funds to purchase a furnace.

In her Notice of Appeal the appellant wrote that she has no other resources available to get a new furnace.

At the hearing the appellant said that she owns her 1500 square feet home. She had 2 repair men come to take a look at her furnace but both said the furnace was beyond repair. Her hydro bills have gone up – her latest hydro bill was \$307.87. The amount of money she is owing for hydro will soon have reached the cost of a new furnace. Her friends and family are not able to help her financially

In its oral testimony the ministry relied on its reconsideration decision and added the following information: The appellant's shelter allowance for the relevant month was \$529.55.

The panel admitted the appellant's and the ministry's oral testimony pursuant to section 22(4) of the Employment and Assistance Act: The appellant's testimony corroborates with her previous statements that she is a homeowner, her furnace is broken and her hydro bill has increased; the ministry's testimony confirmed that the appellant was in receipt of shelter allowance; therefore the appellant's and the ministry's oral testimony was in support of the information before the ministry at reconsideration.

PART F – Reasons for Panel Decision

The issue on appeal is the reasonableness of the ministry's reconsideration decision dated January 12, 2016, wherein the ministry denied the appellant a crisis supplement for a new furnace; the ministry found that the appellant did not satisfy all three statutory criteria as set out in section 57(1) of the EAPWDR;

1. the expense was not unexpected;
2. it is not established that there are no alternate resources established;
3. failure to obtain a crisis supplement for a new furnace does not result in imminent danger to the appellant's physical health or to the removal of a child under the *Child, Family and Community Service Act*.

The relevant legislation is as follows:

Crisis supplement

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*.

(2) A crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made.

...

(7) Despite subsection (4) (b) or (5) or both, a crisis supplement may be provided to or for a family unit for the following:

- (a) fuel for heating;
- (b) fuel for cooking meals;
- (c) water;
- (d) hydro.

Unexpected

The ministry's position is that pursuant to section 57(1)(a) of the EAPWDR the expense was not unexpected because it can be expected that a 20+ years old furnace will begin to malfunction or break down due to normal wear and tear.

Panel Decision

Section 57(1)(a) specifies that the crisis supplement must be for an "unexpected expense" or to obtain an item "unexpectedly needed". The appellant has not provided evidence as to why paying for a new furnace is an "unexpected expense". The panel finds that the need for a new furnace is not unexpected as her furnace was old and stopped working due to normal wear and tear. Therefore the panel finds that the ministry was reasonable in concluding that the appellant has not satisfied the legislative criterion that the expense for a new furnace was "unexpected".

No Resources

The appellant argues that she has no resources available and cannot find the funds to purchase a new furnace; she has explored the RRAP (Residential Rehabilitation Assistance Program) and the remortgaging option, but the RRAP has no funding available and the bank will not remortgage because she is not employed and does not have enough income. Her family and friends are not able to help her financially.

Her hydro bills are going up because she is using space heaters and she does not know how to pay for the increase – the increase in hydro consumption has put her monthly hydro bill was \$307.87 as she is on an equal monthly payment plan. The amount of money she has outstanding with hydro will soon have reached the cost of a new furnace.

The ministry argues that pursuant to section 57 (1)(a) the appellant has not established that there are no alternate resources available to her: the appellant has been using space heaters to heat her home and as a result her hydro bill has increased from \$108 to \$145 per month. There is room within her monthly shelter allowance to cover the cost of heating her house with space heaters. Consequently, the appellant has alternate resources available to cover the cost of heating her house with space heaters.

Panel Decision

The panel finds that there is insufficient evidence that the appellant has exhausted all resources that were available to her. While the appellant argues that her attempts to raise money for a new furnace were unsuccessful - RRAP has no funds available and the bank will not remortgage her home – the appellant does not provide records to substantiate these claims.

The panel further finds that the appellant had alternate resources available – she used space heaters to heat her home. While the use of space heaters resulted in an increase of \$37 in her monthly hydro bill there is no evidence that there was no room for this expense in her shelter allowance. The onus is on the appellant to substantiate her financial circumstances in order to establish she does not have resources available to meet the need for a new furnace.

Based on the foregoing, the panel finds that the ministry reasonably concluded that the evidence does not establish that the appellant satisfied the legislative criterion that she has no resources available pursuant to section 57(1)(a) .

Imminent Danger to Physical Health

The appellant argues that her malfunctioning furnace poses a considerable health risk to her and her children: it is a fire hazard because it may cause a short resulting in a fire, and there is the risk of carbon monoxide poisoning. Without heat the appellant's home gets too cold and creates a health risk for her and her children. Her pipes may freeze and she may be without water because she has no heat in the basement.

The ministry's position is that given the appellant was able to use space heaters to heat her home and had the financial supports available to sustain that cost, the ministry does not accept that failure to obtain a crisis supplement for a new furnace will result in imminent danger to the appellant's and her children's physical health or the removal of a child under the Child, Family and Community Service Act as set out in section 57(1)(b).

Panel Decision

In the panel's view the word "imminent" connotes a degree of immediacy that has not been demonstrated in the appellant's circumstances. There is no evidence that failure to obtain a new furnace will put the appellant's and her children's physical health in imminent danger. While the furnace no longer works and gives heat space heaters are being used in its place. The panel notes that the appellant has not provided any information from a physician regarding imminent danger to physical health.

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" in accordance with section 57(1)(b)(i). The panel finds further that there is no evidence that failure to obtain the requested crisis supplement will result in the removal of a child under the *Child, Family and Community Service Act* pursuant to section 57(1)(b)(ii).

Conclusion

Since the criteria in EAPWDR section 57 have not been satisfied, the panel finds that the ministry's decision to deny the appellant a crisis supplement for a new furnace was reasonably supported by the evidence and a reasonable application of the applicable enactment in the circumstances of the appellant. The ministry's decision is confirmed and the appellant is not successful on appeal.