

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated August 5, 2016 which found that the appellant is not eligible for a crisis supplement for home repair as the appellant did not meet the criteria set out in Section 57(1) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). The ministry was not satisfied the evidence established that:

- The need for the item is unexpected or there is an unexpected expense and;
- Failure to obtain the item or meet the expense will result in imminent danger to physical health of any person in the family unit or the removal of a child under the Child, Family and Community Services Act.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA), Section 5
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), Section 57

PART E – Summary of Facts

Before the hearing began, the ministry representative requested another ministry representative be allowed to act as an observer as this was the ministry representative's first tribunal. The appellant did not object to this request.

The appellant is a single person in receipt of Employment and Assistance for Persons with Disabilities benefits.

The information before the ministry at the time of reconsideration included the following:

- Fax requesting assistance with a roof replacement for the appellant's manufactured home.
- Quote from a roofing company for \$8316 dated May 30, 2016.
- Quote from a second roofing company for \$10,450 dated April 20, 2016.
- Consent to Disclosure of Information
- A supportive letter from the appellant's advocate.
- Rural Property Tax Notice dated July 4, 2016 noting the appellant's trailer was valued at \$37,400.
- An email addressed to the advocate from the previous owner of the mobile home stating the unit was not condemned.
- A letter from the appellant's son stating his knowledge of roof repairs in 2014 and 2015.

In the appellant's Request for Reconsideration, she wrote:

- The previous owner was in foreclosure in June 2015. That was the reason why the appellant was going to move.
- She purchased the mobile unit in January 2016. It was a very good deal as the unit had a new kitchen, it was assessed at \$37,400, and the trailer had adaptations for handicapped accessibility.
- She became aware the full roof required replacement in the spring of 2016 when a roofing company came out to look at the roof.
- Previous to the roofing company findings, her son had patched the roof with tar and that had solved the problem.

In the appellant's Notice of Appeal, she wrote:

- The ministry agreed the appellant had met the crisis supplement criteria 1, 3, and 4.
- The roof replacement was an unexpected issue as her sons had fixed a small leak in 2015 and had treated all the seams and that had fixed the problem.

At the hearing, the appellant's advocate (with input from the appellant) added:

- The appeal was focused on criterion 2, an unexpected expense; the only criteria the appellant had not met.
- The trailer is worth \$37,400.
- An email sent by the mobile park owner stated the trailer was not condemned but was in repossession due to a foreclosure.

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- After living in the unit for a number of years, the roof was repaired in 2014 and 2015.
 - The trailer was purchased three months after the leak was repaired. The appellant's brother, who owns a number of structures, had inspected the unit but did not inspect the roof. He felt it was a good buy.
 - The appellant feeling the trailer was in good condition and as funds were not available did not have an inspection completed.
 - The appellant had the roof tarped before her son had repaired the leak.
 - As a result of lack of resources, she is requesting a crisis supplement for home repairs.

During the hearing the appellant responded to questions asked by the panel as follows;

- Why was a roof estimate performed? The appellant stated she was not sure. The roof had been leaking but the tar had repaired the leak. The leak was before she purchased the trailer.
- Asked how the roof inspection in 2016 had come about the appellant stated; a fellow was checking another trailer which had tarps and he stopped in to take a look at hers.
- Asked if there were any leaks in the roof in 2016, the appellant stated; no other leaks had occurred until recently in August 2016.

In the reconsideration decision, the ministry wrote:

- Given that the appellant had purchased a trailer valued at \$37,400 for \$100 in "as is" condition and without a home inspection despite knowing that the trailer's roof had required repairs in 2014 and 2015, the minister does not accept that the appellant's need for a new replacement roof is unexpected; therefore, criterion #2 had not been met.
- The appellant has not supplied information that would indicate that failure to replace the roof will result in imminent danger to the physical health of any person in the family unit therefore, the appellant did not meet this criterion #3.
- As the appellant's request had not meet all the criteria listed in Section 57(1) of the EAPWDR, the minister was unable to approve the appellant's request for a crisis supplement for home repairs.

At the hearing, the ministry stated:

- The appellant had been denied the crisis supplement for home repairs as she had not met all the required criteria.
- In June 2015, the appellant had reported her residence was condemned.
- In July 2015, the appellant had reported her residence was to be demolished.
- On January 2016, she had purchased the trailer in "as is" condition.
- The evidence supplied by the appellant shows that the roof required repair over two years and that the appellant had failed to have the roof inspected before purchasing the mobile knowing there were issues.

In response to the ministry statements re: the trailer being condemned and/or demolished, the appellant stated:

- The sheriff who had told her that if the trailer was being foreclosed, stated they might move it or demolish it on site.
- The landlord when asked to repair the leak in 2015 responded she wouldn't repair the leak as the trailer should be condemned.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's reconsideration decision of August 5, 2016 which denied the appellant's request for a crisis supplement for home repair was reasonably supported by the evidence or a reasonable application of the enactment in the circumstances of the appellant. Specifically, the minister was not satisfied that the appellant's request meets the requirements of Section 57(1)(a) of the EAPWDR as the repair to the roof was not an unexpected expense and Section 57(1)(b)(i) of the EAPWDR as no evidence was given to indicate there was imminent danger to physical health of any person in the family unit.

The relevant legislation is as follows:

Employment and Assistance for Persons with Disabilities Act, Section 5

Disability assistance and supplements

5 Subject to the regulations, the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it.

Employment and Assistance for Persons with Disabilities Regulation, Section 57

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.

The appellant's position is that she had met the crisis supplement criteria 1, 3, and 4 in the original decision therefore was only addressing the denied criterion #2, an unexpected cost. The appellant's position in terms of criterion #2 was that upon purchasing the mobile unit, she felt the roofing issues had been addressed therefore when told the roof had to be replaced due to rot this was an unexpected expense she could not address. The appellant argued that she did

her due diligence by consulting her brother as he had experience in owning a number of buildings and that he had advised the purchase was a good deal. The appellant did not address criterion #3 as she argued that the ministry was originally satisfied that it had already been met.

The ministry's position is as the appellant had purchased the unit "as is" condition without an inspection knowing that roofing issues had occurred in 2014 and 2015 it therefore does not accept her need for a replacement roof is unexpected.

The minister also concluded the appellant did not meet criterion #3, as no evidence was supplied to indicate that failure to meet the expense or obtain the item will result in imminent danger to the physical health of any person in the family unit.

In considering the two criterion "unexpected expense" and "imminent danger", the panel concluded the following:

Section 57(1)(a) of the EAPWDR- unexpected expense

The ministry reasonably concluded that the appellant did not meet the requirements set out in Section 57(1)(a) of the EAPWDR as the appellant was aware that the unit she purchased did have roofing issues before she made her purchase in 2016. Repairs were completed in 2014 and 2015. As well, the older trailer was purchased in an "as is" condition and a pre-purchase inspection was not conducted.

Section 57(1)(b)(i) of the EAPWDR- imminent danger

While the appellant did not address this criterion, the panel finds that there is no evidence to confirm that failure to meet the expense specifically a new roof at this time would result in imminent danger to the physical health the appellant. Therefore, the panel finds that the ministry reasonably determined that Section 57(1)(b)(i) of the EAPWDR was not met.

Conclusion

Having reviewed and considered all of the evidence and relevant legislation, the panel finds that the ministry's reconsideration decision which determined that the appellant was not eligible for a crisis supplement for home repairs pursuant to Section 5 of the EAPWDA and Section 57(1) of the EAPWDR was reasonably supported by the evidence, and therefore confirms the decision. The appellant is not successful in her appeal.