

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (the ministry) dated October 27, 2016 which held that the appellant was not eligible for a crisis supplement for shelter, because the criteria set out under Section 59 (1) of the Employment and Assistance Regulation were not met.

Specifically, the minister was not satisfied that the need for shelter costs is unexpected and that there were no alternate resources available to obtain the items as required under subsection (a).

However, the minister was satisfied that failure to obtain a crisis supplement for shelter may result in imminent danger to the appellant's physical health as required under subsection (b).

PART D – Relevant Legislation

Employment and Assistance Regulation, (EAR) Section 59.

PART E – Summary of Facts

The evidence before the ministry at reconsideration included:

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities in the appellant's name dated September 3, 2016 for failure to pay rent in the amount of \$375 due on September 1, 2016.
- A letter dated October 4, 2016 in which the appellant requests that his rent cheque be replaced as along with his income assistance, wallet, cell phone, gym bag and shoes were all stolen from a local basketball court. The appellant reported the theft to the police and included their file number as well as viewed camera footage in the park however, finding nothing to assist him.
- The appellant's Request for Reconsideration, dated October 19, 2016.

Included with the appellant's Notice of Appeal (NOA) dated November 2, 2016 were the following:

- In the Reasons for Appeal, the appellant explains that the landlord made a typo mistake in regards to the eviction notice and that an updated copy is included, as well as rent receipts showing that the September rent was paid. He indicates that his landlady is still willing to rent to him as long as his rent is paid to date. The appellant states that he has done everything possible to seek alternative means to pay rent and stay positive throughout this process.
- Rent receipt #001 dated August 2, 2016 and signed by his landlady confirming that the appellant paid \$375 for August 2016.
- Rent receipt #002 dated September 1, 2016 and signed by his landlady confirming that the appellant paid \$375 for September 2016.
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities in the appellant's name dated October 3, 2016 for failure to pay rent in the amount of \$375 due on October 1, 2016.
- A 2 page letter to the ministry dated October 28, 2016 in which the appellant requests that his rent cheque for October 2016 be replaced as it was stolen from a local park on September 29. He writes that his landlady had made an error on the 10 day eviction notice by entering September however rent receipts, his service request an updated eviction notice reflect that it was October rent that he failed to pay due to this incident. After looking for alternate sources of income and seeking assistance elsewhere he has been unable to make the October rent payment and his 10 day eviction notice has since been enforced but he has been told by the landlady that his residence will be available for him upon payment to the October rent. The appellant reiterates the items that were stolen and that they were reported to the local police. The appellant indicates that he also viewed camera footage to determine who might have been involved. The appellant writes that he hopes that this information will ensure that his request be approved. He adds that it has been extremely difficult to remain positive during this time but is capable and willing to maintain a strong positive outlook and move forward with his employment action plans.

At the hearing, the appellant testified that he really didn't understand why he had been denied the replacement cheque and found the reconsideration process confusing. He stated that he had gone to the ministry office for the Reconsideration package at least twice when it wasn't ready and when he received it, he didn't have time to read through it as it was the last day before it was due. The appellant indicated that he was told that he would have to make a new service request with the

additional information but as he was homeless and trying to look after himself, he thought that providing the information on appeal would be sufficient. In response to a question by the panel, the appellant indicated that he had asked his family for financial assistance, stayed at friends as well as a community shelter and has recently seen a medical practitioner.

The ministry confirmed that the appellant had attended their office on several occasions and that the ministry had 10 business days to provide the appellant with the Reconsideration package while the appellant had 20 business days to complete his reconsideration request. The ministry noted that the appellant did not provide any reasons for his Reconsideration Request. The ministry also testified that it was their policy not to replace cashed cheques.

The ministry stood by their reconsideration decision and objected to the admissibility of the new documented information as had it been available at reconsideration it may have led to a different outcome.

The panel did not admit the new documented information specifically; Rent receipt #001, Rent receipt #002 and the copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities in the appellant's name dated October 3, 2016 for failure to pay rent in the amount of \$375 due on October 1, 2016, provided by the appellant as the particulars noted on these documents were new and not consistent with the information previously provided by the appellant and available at reconsideration, pursuant to Section 22(4) of the Employment and Assistance Act. The panel accepts the appellant's information in the NOA as argument.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's decision to deny the appellant a crisis supplement for shelter because the criteria set out under Section 59(1) of the Employment and Assistance Regulation were not met was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

Specifically, the minister was not satisfied that the need for shelter costs is unexpected and that there were no alternate resources available to obtain the items as required under subsection (a).

However, the minister was satisfied that failure to obtain a crisis supplement for shelter may result in imminent danger to the appellant's physical health as required under subsection (b).

Relevant Legislation - EAR

Crisis supplement

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.

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

(3) A crisis supplement may not be provided for the purpose of obtaining

(a) a supplement described in Schedule C, or

(b) any other health care goods or services.

(4) A crisis supplement provided for food, shelter or clothing is subject to the following limitations:

(a) if for food, the maximum amount that may be provided in a calendar month is \$20 for each person in the family unit,

(b) if for shelter, the maximum amount that may be provided in a calendar month is the smaller of

(i) the family unit's actual shelter cost, and

(ii) the maximum set out in section 4 of Schedule A or Table 2 of Schedule D, as applicable, for a family unit that matches the family unit;

(c) if for clothing, the amount that may be provided must not exceed the smaller of

(i) \$100 for each person in the family unit in the 12 calendar month period preceding the date of application for the crisis supplement, and

(ii) \$400 for the family unit in the 12 calendar month period preceding the date of application for the crisis supplement.

(5) The cumulative amount of crisis supplements that may be provided to or for a family unit in a year must not exceed the amount calculated under subsection (6).

(6) In the calendar month in which the application or request for the supplement is made, the amount under subsection (5) is calculated by multiplying by 2 the maximum amount of income assistance or hardship assistance that may be provided for the month under Schedule A or Schedule D to a family unit that matches the family unit.

(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 expense Section 59(1)(a)

The appellant's position is that he reported the theft of his rent money and other personal possessions to the local police who have provided him with a file number. As well, he has viewed cameral footage of the vicinity of the theft to try to identify the person(s) responsible. The appellant argues that he needs rent money to secure his residence and has made every effort possible to provide the ministry with an explanation and supporting documents to correct his original Notice of Eviction from September to October, 2016 in order to have his October rent costs replaced.

The ministry's position is that the appellant's evidence indicated a need for shelter costs to pay rent for September which was not unexpected as it was due on September 1 and that the appellant received an eviction notice on September 3 but didn't submit it to the ministry until October 4, 2016.

The panel finds that the appellant could not have foreseen that his rent money would be stolen and notes that the appellant immediately reported the theft to the police and then when making a special request for a replacement for rent costs, provided the police file number to the ministry as proof. The panel recognizes that the appellant was not initially aware that he had submitted an eviction notice to the ministry for September's rent on October 4, 2016, in error.

While the panel acknowledges that it is not ministry policy to replace cashed cheques, the panel finds that it would have been reasonable for the ministry to follow-up with the police report.

Therefore, the panel finds that the ministry did not reasonably determine that the evidence at reconsideration established that the appellant does not qualify for a crisis supplement to meet an unexpected expense, that being replacement rent costs.

Available Resources – Section 59 1)(a)

The appellant argues that he has asked family for financial assistance and looked for alternate sources of income while being homeless and staying with friends and at a community shelter.

The ministry argues that it is not satisfied that the appellant has exhausted all the resources available.

The panel notes that the onus is on an applicant to establish eligibility for the requested supplement. The appellant argues that he doesn't have the money to pay for rent, that he has done everything possible to seek alternative means to pay rent and has since been evicted. The panel finds that the appellant who is homeless did provide adequate information to establish that there are no available resources to meet the need for rent costs.



Panel's Decision

In conclusion, the panel finds that all the mandatory criteria of Section 59 of the EAR have been met and that the appellant's request for a crisis supplement for shelter is reasonably supported by the evidence. The reconsideration decision is rescinded in favour of the appellant. The appellant is successful in his appeal.