

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (“ministry”) reconsideration decision dated September 21, 2016, which held that the appellant was ineligible for a crisis supplement for shelter to pay arrears owed for rent because he did not meet the criteria under section 59 of the *Employment and Assistance Regulation*. The ministry’s reconsideration decision determined that the appellant had not demonstrated that the expense was unexpected, there were no resources available to meet the expense and failure to meet the expense would result in imminent danger to physical health.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR), Section 59

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

PART E – Summary of Facts

The evidence before the ministry at reconsideration included:

1. Ministry Information/Document Checklist, dated April 19, 2016
2. Rent receipt for \$442, dated April 4, 2016
3. 10-day Notice to End Tenancy for Unpaid Rent or Utilities in the amount of \$254, dated May 11, 2016
4. Tenant Rent statement indicating an amount due of \$254, dated May 11, 2016
5. 10-day Notice to End Tenancy for Unpaid Rent or Utilities in the amount of \$1298, dated August 16, 2016
6. Tenant Rent statement indicating an amount due of \$1298, dated August 15, 2016
7. Service Request form completed by the appellant requesting a crisis supplement for shelter, dated August 17, 2016, which includes the following information:
 - The appellant indicates that the reason for non-payment is that he was told on May 1, 2016 by an employee from BC Government office that she would make arrangements to pay his rent every month automatically
 - The appellant indicates “NONE, I don’t have any” in response to the question of whether he has accessed any resources to meet the need or tried to meet the need on his own
 - The appellant responds to the question of imminent risk to health and safety by indicating that he has Hep C and Sclerosis

In his request for reconsideration the appellant included a handwritten note signed and dated September 7, 2016, in which he included the following information:

- He had an in person discussion with a worker at BC social services in the first week of July during which he was told that his monthly rent would be paid directly to his landlord
- His landlord informed him 3 ½ months later that rents had not been received and the appellant was now 3 1/2 months behind
- The appellant has paid for September rent
- The appellant believed his rent was being paid
- His landlord didn’t bother him for three months and then gave him an eviction notice
- The appellant is surprised that his rent was not being paid and now has a twelve hundred dollar bill with his landlord
- The appellant has applied for CPP disability but it takes a long while

In his Notice of Appeal, dated October 3, 2016, the Appellant wrote:

- A worker at the social services office said they would deduct the appellant’s rent portion directly from his welfare payment
- He had not spoken to anyone for three months

The appeal proceeded by way of a written hearing; the appellant did not make a submission.

The ministry relied on its reconsideration decision in its submission and clarified that the eviction notice dated August 16, 2016 included outstanding rent for May 2016 as well as June, July and August 2016.

- the reconsideration officer confirmed with the appellant’s landlord that the outstanding amount for May 2016 had been received

- the outstanding balance for unpaid rent was \$1044 for June, July and August 2016.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry was reasonable in denying the appellant a crisis supplement for shelter. More specifically, the issue is the reasonableness of the ministry's reconsideration decision, which denied the appellant a crisis supplement for shelter to pay rental arrears because he did not meet the criteria under section 59 of the EAR. The ministry determined that the appellant had not demonstrated that: 1) the expense was unexpected; 2) there were no resources available to meet the expense; and 3) failure to meet the expense would result in imminent danger to physical health.

The panel notes that the appellant was approved for Persons with Disabilities (PWD) effective September 1, 2016, prior to the reconsideration decision. The panel further notes that the crisis supplement for shelter was sought to pay rental arrears incurred prior to the appellant's PWD approval. The panel also notes that in the reconsideration decision, dated September 21, 2016, the ministry refers to both section 59 of the EAR and section 57 of the EAPWDR; the legislative criteria in both provisions are the same.

The legislation provides:

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, and

(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.

EAPWDR

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.

(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 disability 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.

The position of the parties

Ministry's position

The ministry's position is that the legislation allows for the provision of a crisis supplement only when all of the legislative criteria are met. In order to qualify for a crisis supplement the appellant must show: 1) that the supplement is required to meet an unexpected expense, 2) there are no alternate resources available to the family unit to meet the expense, and 3) failure to meet the expense will result in imminent danger to the physical health of any person in the family unit. The ministry's position, as reflected in the reconsideration decision, is that the appellant does not meet all three of the required legislative criteria.

1) Unexpected

The ministry's position is that the expense was not unexpected. The ministry noted in its reconsideration decision that the appellant was advised in May 2016 that direct payment of his rent was not possible because the amount that he was eligible to receive was less than the amount of his rent. The ministry also noted in its reconsideration decision that the appellant continued to receive a monthly deposit but did not follow up with the ministry about why the funds weren't being paid directly to the landlord. The ministry further noted that the appellant's landlord had advised that it made three attempts to contact the appellant in July about late rent payments and the appellant did not contact the ministry about rent not being paid.

2) No resources

The ministry's position is that the appellant has not demonstrated that there are no resources available to him to meet the expense. The ministry's reconsideration decision noted that the appellant had not indicated that he had connected with any community resources that could assist in paying the rent owed or a temporary rental subsidy. The ministry also noted in its reconsideration decision that the landlord had advised that if the appellant could make a partial payment then a repayment agreement could be initiated and the appellant could avoid eviction.

3) Imminent danger to physical health

The ministry's position is that failure to issue a crisis supplement for shelter would not result in imminent danger to the appellant's physical health. In relation to this criterion, the ministry notes in its reconsideration decision that the appellant's chronic health concerns could result in imminent danger to his physical health if he were to be evicted and become homeless. However, the ministry's position is that, because the appellant has the opportunity to make arrangements for payment of his late rent, failure to issue the crisis supplement would not result in imminent danger to the appellant's physical health. The ministry further noted in its reconsideration decision that the maximum crisis

supplement available to the appellant is less than the rental arrears owed by the appellant.

Appellant's position

The appellant's position is that the expense was unexpected because he believed that rental payments were being made directly to his landlord on his behalf. The appellant argues that he was told by an employee at the social services office that his rent portion would be deducted directly from his welfare payment and he believed this was happening as he had not been contacted by his landlord for three months prior to the receiving the eviction notice. The appellant submits that he was surprised that his rent was not being paid and now has a twelve hundred dollar bill with his landlord for rental arrears. The appellant further submits that he has no resources available to meet the expense occasioned by the bill for rental arrears. The appellant also submits that there is a direct threat to his health and safety because he has Hep C and sclerosis.

Panel Decision

The panel finds that ministry's denial of the appellant's request for a crisis supplement for shelter was a reasonable application of the legislation in the circumstances of the appellant. The panel notes that the amount of the appellant's assistance was not sufficient to pay his rent and, even if the full amount of the appellant's benefit had been paid directly to the landlord, the appellant would have been responsible for paying at least a portion of the total rent but did not do this. Further, the panel finds that the appellant continued to receive his monthly benefit from the ministry, and therefore, should have been aware that it was not being applied directly to his rent. As such, the panel finds that the appellant has not provided sufficient information to demonstrate that the expense was unexpected. The panel also notes that the appellant has not provided any information about attempts to meet the expense and finds that there is not sufficient evidence to demonstrate that there are no resources available to meet the expense. Finally, the panel notes that the maximum crisis supplement allowable would not cover the appellant's rental arrears and that the appellant's landlord is amenable to a repayment agreement. The panel finds that appellant has not demonstrated that failure to obtain the benefit would result in imminent danger to his physical health. As a result, the panel concludes that the ministry's determination that the appellant did not meet the legislative criteria is a reasonable application of the legislation in the appellant's circumstances.

Conclusion

The panel finds that the ministry's reconsideration decision denying the appellant a crisis supplement for shelter because he did not meet the legislative criteria is a reasonable application of the legislation in the circumstances of the appellant and confirms the reconsideration decision. The appellant is not successful in his appeal.