

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision dated January 9, 2017, wherein the ministry denied the appellant a crisis supplement for shelter. The ministry found that the appellant did not satisfy two of the three statutory criteria for a crisis supplement as set out in section 59 (1) of the Employment and Assistance Regulation (EAR). The ministry held that

1. the expense was not unexpected;
2. it is not established that there are no alternate resources available;

The ministry determined that criterion 3 was met; a review of the community resources confirmed that there is no family shelter available in this area, and a review of the weather forecast confirmed freezing temperatures to be expected. As a result the ministry was satisfied that failure to meet the need for shelter would result in imminent danger to the appellant’s family’s physical health and/or the removal of the child from his care.

PART D – Relevant Legislation

Section 59 of the EAR.

PART E – Summary of Facts

The appellant receives income assistance as a couple with one dependent child (16 years old).

On December 21, 2016, the appellant phoned and requested a crisis supplement for shelter for January. The appellant stated that he and his family have lived in the same hotel since October 15, 2016.

On October 28, 2016, and on December 21, 2016, the ministry had issued two crisis supplements for shelter, each in the amount of \$660.

The hotel requires a weekly payment of \$368 which includes taxes.

The appellant's spouse declared \$1,168.57 employment income for November 2016 and \$ 1,200.69 for October 2016. No information has been provided at the time of reconsideration to indicate her employment income has ended or been reduced.

The appellant signed a monthly report on December 29, 2016 requesting assistance. He declared the family's December income as \$413.35 child tax benefits, \$1,171.50 employment income for the spouse, and \$402.31 income of the appellant's dependent child. The report also indicates that there are no changes to his or his spouse's employment. The appellant comments "Have submitted BC Housing application for subsidized housing."

2 pay slips show the following income received by the appellant's spouse: 598.75 on December 16, 2016 (pay period November 26 – December 9, 2016), and \$572.75 on December 2, 2016 (pay period November 12 – November 25, 2016).

The appellant has declared income for his child from September – December 2016, averaging \$470 per month. 1 pay slip shows the following income received by the appellant's son: \$169.23 for the period ending December 10, 2016, and \$1872.07 for year-to-date annual income.

The appellant was issued \$383.16 income assistance for January 2017.

In his December 28, 2016 request for reconsideration the appellant writes that he is trying very hard to move out of the hotel and into a more affordable place. He has sought assistance from a local social assistance program and received the BC housing application package for subsidized housing; he also received a supplemental package from the local health clinic.

At the hearing the appellant submitted a 3 page letter that contained the following information: The appellant's monthly expenses amount to \$2775.88: "Motel \$1472, Food & Incidentals \$500, Auto Insurance \$96.18, Fuel \$100, Bus Tickets to get [the appellant's spouse] to work \$90 a month, \$50 a month for both cell phones, needed for work searching and emergencies, Medications for [the appellant's child] \$300 a month, storage unit \$167.70". They do not have enough money and are "digging in [their] food money". "We have looked for other places, 1 bedroom suites, 2 bedroom units, a tiny trailer, mobile home or cottage, anything that would accommodate us. We still had no luck even after giving away our dog; the few that came up are expensive outside our shelter portion, way above the limit." The appellant's wife missed 5 days of work due to the flu for which she will not get paid,

and as a result her income will decrease. In this letter the appellant also provided argument that will be addressed in Part F of this decision.

At the hearing the appellant's wife stated that they have been looking for accommodation but have not found anything suitable. The ministry does not help paying for the damage deposit which makes their situation more difficult. The hotel feels like a prison and there is no privacy. The fridge is very small which increases the cost of food as she can only buy small amounts at a time. She made \$15000 last year and works 24 hours a week; she could get fulltime work which only guarantees 28 hours a week - then she would have to work late shifts and take care of closing. Their son works 2 days a week and pays for part of his food and clothing. They only have 1 car that is not always reliable - it is a 1992 model. The car has no snow tires which makes it unsafe to drive in the snow.

The appellant stated that after he submitted the BC Housing package he was advised of several rental accommodations in 2 communities but nothing worked out as most accommodations have stairs which he cannot master due to his arthritis, and most rentals are not pet friendly – he has a cat. The hotel where he and his family are staying to date is pet friendly. The appellant contacted to 2 local assistance programs and the local MLA, and a rental accommodation may work out for next month. He and his family are also considering relocating. Before they moved to the hotel they paid \$1600 rent per month.

In its oral testimony the ministry relied on its reconsideration decision and added the following information: The ministry provides half of the monthly rent towards a damage deposit (this amount is re-payable) and the appellant is eligible for this amount. His receipts for storage rental were received by the ministry. The ministry noted that it is unable to take pets into consideration, it looks at the family unit alone.

The panel admitted the appellant's letter and oral testimony and the ministry's oral testimony pursuant to section 22(4) of the Employment and Assistance Act as in support of the information before the ministry at reconsideration; the appellant's letter and testimony add substantiating details to his financial circumstances and shelter situation. The ministry's oral testimony confirmed and clarified information that was previously made available to the appellant.

PART F – Reasons for Panel Decision

The issue on appeal is the reasonableness of the ministry's reconsideration decision dated January 9, 2017, wherein the ministry denied the appellant a crisis supplement for shelter; the ministry found that the appellant did not satisfy 2 statutory criteria as set out in section 59(1) of the EAR;

1. the expense was not unexpected;
2. it is not established that there are no alternate resources available;

The relevant legislation is as follows:

Crisis supplement

59 (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 appellant argues that each month he has to stay at the hotel he is in a crisis situation and meets the criteria for a crisis supplement. The fact that the ministry does not increase the shelter allowance rate puts him into an unexpected situation. As there are no family shelters available and he and his spouse do not want to separate from their 16 year old child the hotel is their only option until they find a more stable and affordable place. The family never planned to seek shelter in a hotel for an extended period of time and therefore the expense is unexpected.

The ministry's position is that pursuant to section 59(1)(a) of the EAPWDR the appellant's expense was not unexpected; the appellant made his request 10 days prior to the end of the month which did not indicate that he was in crisis (such as the sudden occurrence of a fire or a flood); it rather demonstrates that he expects to remain in the same hotel another full month. The appellant has not exhausted his options to find an alternative housing solution for January, either for the long term or short term, including finding a more affordable hotel with availability now that the holidays have passed. As such the appellant has an expected expense to pay his current hotel through January 2017 rather than an unexpected expense due to finding no other housing option.

The ministry argues further that the appellant is aware that there are limited rentals available in the area, it does not come as a surprise. The amount of rent he needs to pay for the hotel room is not unexpected – he has paid it before in previous months. The same applies for the appellant's shelter allowance – he has received the same legislated amount of \$660 in previous months.

The ministry further argues that their job is to put a roof over the head and food in the stomach of their clients, not to support a pattern of dependence (continued dependence on crisis supplements for shelter in the appellant's case as he has already received two crisis supplements for shelter costs incurred at the hotel). Clients should rely on employment income for their living expenses and, considering the appellant's income, it is not realistic that he can pay \$1400 per month for rent.

Panel Decision

Section 57(1)(a) specifies that the crisis supplement must be for an "unexpected expense" or to obtain an item "unexpectedly needed".

By asking for a supplement for January on December 21, the appellant demonstrated that he expected to continue staying at the hotel in the month of January; therefore January hotel costs are an expected expense rather than an unexpected one. As he has been living there since October 15, 2016 and paying \$368 weekly, the appellant is aware of the amount he is expected to pay to the hotel – it is not an unexpected amount.

Consequently, the panel finds that the hotel expense for January is not an unexpected expense and the ministry was reasonable in concluding that the appellant has not satisfied the legislative criterion that the expense for paying for his hotel room in January was "unexpected".

The panel notes that a crisis supplement is not intended for a long term situation but for an unexpected crisis.

No Resources

The appellant argues that he is trying very hard to move into a more affordable place but there is a lack of rental properties in the area and he has no resources available. The hotel where he is staying is already the cheapest in town and did not become more affordable after the holiday season. Each month he and his family have to get by on a deficit and use food money to pay for the hotel room. The family's monthly expenses (hotel, food, insurance, gas, bus tickets, cell phones, medications, storage and miscellaneous) by far exceed the family's income. The appellant's wife's income will go down because she missed 5 days of work due to flu. It is cruel to expect them to move far away as their son would have to leave his friends and not be able to graduate from his current high school.

The ministry argues that pursuant to section 59 (1)(a) the appellant has not established that there are no alternate resources available to him; the ministry considers child tax benefit (\$413.35), the spouse's employment income (\$1117.50) and the appellant's income assistance (\$383.16) as resources available to him. And while the appellant's child's income of \$470 per month does not affect the appellant's income assistance, this income is required to be reported so the ministry is aware of all financial resources available to the family. The ministry concludes that the appellant has resources available to him and therefore criterion #2 has not been met.

Panel Decision

While the appellant argues that the family unit's monthly expenses exceed the monthly income, as the family unit receives approximately \$ 2000 per month income which does not include the son's monthly income of approximately \$400, the panel finds that the ministry reasonably determined that the appellant's child tax benefit (\$413.35), the spouse's employment income (\$1117.50) and the appellant's income assistance (\$383.16) are resources available to him.

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 he has no resources available pursuant to section 59(1)(a) .

Conclusion

Since 2 out of 3 criteria in EAR section 59 have not been satisfied, the panel determines that the ministry's decision to deny the appellant a crisis supplement for shelter was reasonably supported by the evidence. The ministry's decision is confirmed and the appellant is not successful on appeal.