



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (the Ministry) reconsideration decision made under section 57(1) of the *Employment and Assistance for Persons with Disabilities Regulation* and dated February 15, 2017, that denied the appellant's request for a crisis supplement for shelter for the month of February, 2017, on the grounds that the Appellant did not show that the crisis supplement was for an unexpected need or an unexpected expense, did not show that there are no alternate resources available, but the ministry accepted that failure to meet the expense will result in imminent danger to the Appellant's physical health.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act, section 5
Employment and Assistance for Persons with Disabilities Regulation, section 57

PART E – Summary of Facts

Nature of the Appellant's Application

The appellant applied for a crisis supplement for shelter, which was denied. The appellant requested reconsideration of the denial.

Evidence at the Time of Reconsideration

The evidence before the Ministry at the time of Reconsideration consisted of:

A. A Request for Reconsideration request February 7, 2017, in which the appellant states that he is requesting reconsideration because

- he needs it
- he might get kicked out (of his new rental accommodation) if he can't pay for February
- that he "swears to god" his landlady did not return his money to him and he has a police report
- he does not want to lose his new rental accommodation

Evidence Provided on Appeal

Appellant

In his Notice of Appeal, the Appellant submitted that he disagreed with the ministry's reconsideration decision because

- he can't pay for past rent
- the girl (meaning the landlady) lied saying she gave the Appellant back the money when she didn't
- "her number does not go through", which the appellant clarified by saying that the former landlady's telephone number is apparently out of service

Appellant's Additional Evidence

At the appeal, the Appellant orally submitted additional evidence

- that he was renting from a woman who herself was the tenant of a two bedroom basement suite, and had obtained a room in the basement suite by answering an ad on Craigslist
- that he was to pay his share of the rent, \$600 per month, to the woman he sublet from, and she was responsible for paying the rent for the basement suite to the owner/landlord of the house
- that he had never met the owner of the house, the actual landlord, and was told by the woman who he sub-let from that he would have to be away from the house when the landlord came over because the landlord was of a different ethnicity from the Appellant and there might be some unpleasantness
- that he has lived there for one month and expected to remain in the basement suite for at least the month of February
- that one day he went out for a couple of hours to a soccer game and when he returned, all of his belongings were out in the front yard, at which time he found a note on the door saying that the house was to be demolished on February 3, and this was the first and only indication he had that he had to leave and that the house was being demolished
- he had given his rent money for February to the woman he was renting from
- after he had obtained new accommodation, living with the witness he brought to the hearing,

he went back to the house several times in February to try and find the woman he had sublet from, but she was never there

- on the occasions he went back to the house, in February, there was no indication that the house was being demolished
- he tried phoning the woman he had sublet from, but his calls never went through and he explained that by saying that she had probably blocked his number
- that he was unable to pay rent for February to the person with whom he had found accommodation
- that he had called the ministry and they told him that the woman he rented from said that she had returned the rent money to the Appellant
- that he is struggling and had no money

Appellant's Witness

The Appellant's witness said that

- he had gone to the rental suite twice with the Appellant and
- had seen that the Appellant's belongings had been thrown out,
- he wrote a note to the ministry to the effect that the Appellant would be living with him and he needed the February rent, and
- on the occasions he went to the rental suite the woman tenant from whom the Appellant had rented was not there.

Ministry

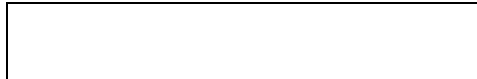
The ministry relied on the Reconsideration Decision, which stated

- that the Appellant's previous residence is being demolished and that is why he is requesting a crisis supplement for shelter costs
- the appellant filed a police report alleging that the woman to whom he paid rent had been pocketing the rent money and did not tell him the house was being demolished
- that the Appellant found a new place and he needed the \$600 rent money he paid for his previous place so that he could pay rent for his new residence as he has not yet paid the new landlord
- to rent for \$600 per month but he did need the rent money for February as he had to paid for his original residence
- that the Appellant had provided the police report

Ministry's Additional Evidence

At the appeal the ministry representative orally submitted additional evidence, saying

- that on the date of the appeal he had spoken with the worker dealing with the woman to whom the Appellant paid rent and she confirmed to him that she had paid the rent money back to the Appellant, and
- that the date, not set out in the reconsideration decision, on which the ministry contacted Ms. LL who confirmed that the house was being demolished and that she had returned the February rent, was January 30
- that the ministry representative does not know why the original application for the crisis supplement was not in the appeal record when it must have been before reconsideration officer
- the ministry representative does not know why the police report was not in the appeal record



- the ministry does not know why the note concerning demolition was not in the appeal record

Panel Finding - Additional Evidence

The panel finds that the Appellant's additional evidence and that of the witness and of the ministry is in support of the information and records that were before the minister when the reconsideration decision being appealed was made and admits that additional evidence pursuant to section 22(4) *EAA*.

PART F – Reasons for Panel Decision

Issue

The issue is whether the Ministry of Social Development and Social Innovation's (the Ministry) reconsideration decision made under section 57(1) of the *Employment and Assistance Regulation* and dated February 15, 2017, which denied the appellant's request for a crisis supplement for shelter for the month of February, 2017, on the grounds that the Appellant did not show that the crisis supplement was for an unexpected need or an unexpected expense, did not show that there are no alternate resources available, but did show that failure to meet the expense will result in imminent danger to the Appellant's physical health, was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the Appellant.

Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA), 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 (EAPWDR), 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, or
(ii) removal of a child under the *Child, Family and Community Service Act*.

General Scheme of the Legislation

The general scheme of the *EAPWDA* section 5, the minister may provide a supplement to an person if that person meets the requirements of the *EAPWDR* section 57. That section provides that an individual may receive a crisis supplement if three criteria are met. The first is that the Minister may provide a supplement if it is required to meet an unexpected expense or to obtain an item unexpectedly needed (section 57(1)(a) *EAPWDR*). The second is that the person is unable to meet the expense or obtain the item because there are no resources available to the family (section 57(1)(a) *EAPWDR*). The third is that the Minister must consider that failure to meet the expense or obtain the item will result in either imminent danger to the person's physical health or removal of a child under the *Child, Family and Community Service Act* (section 57(1)(b) *EAPWDR*). The child removal provision is not an issue as the Appellant lives alone.

Analysis

Section 57(1)(a) EAPWDR – Unexpected Expense

The first part of the sub-section requires the Appellant to show that the shelter expense for which he seeks a supplement is unexpected.

Appellant's Position

The Appellant's position was that he expected to remain in the two bedroom suite for the month of February, but after going out for a couple of hours to a soccer game, after he had paid the February rent, he came home to find a note on the door saying the house would be demolished on February 3, and all his belongings out in the front yard. He was struggling, had to find new accommodation and has not been able to pay the rent for February to the person he is now renting from.

Ministry's Position

The ministry relied on the reconsideration decision, which found that the Appellant had been advised that his previous residence was being demolished and he found a new residence to live and it would therefore not be unexpected to have to pay rent at the new residence.

Panel Finding

The panel finds that for the Appellant to arrive home at a residence he had only occupied for about a month, after an absence of about 2 hours while attending a soccer game, to find no one at the residence, a note on the door saying that the residence was being demolished on February 3, and all his belongings in the front yard, was something unexpected, and since the Appellant had already paid the February rent, to have to come up with rent for that month again was an unexpected expense.

The panel finds that with only a telephone call from a ministry worker to the former landlord from whom the Appellant had sublet and accepting the former landlady's word that she had repaid the appellant and with no evidence of any follow-up by the ministry, and in light of the Appellant's evidence that he had not been paid back the rent, for which he filed a police report (which the ministry had a copy of) and had made several attempts to contact the former landlady without success, it was not reasonable to accept the telephone call to the former landlady as evidence of paying the rent back over the evidence of the Appellant that he had not been paid back and had made attempts to follow-up with the former landlady.

The panel finds that the determination at reconsideration that the Appellant's need for a crisis supplement for shelter because the expense was unexpected was not reasonably supported by the evidence and was not a reasonable application of the applicable enactment, namely section 57(1)(a) *EAPWDR*, in the circumstances of the Appellant.

Section 57(1)(a) *EAPWDR* – Inability to Meet an Expense Due to Lack of Resources

The second part of the subsection requires the Appellant to show that he lacks resources with which to meet an unexpected expense.

Appellant's Position

The appellant said in his request for reconsideration that he needs it (referring to the money) to pay rent for February, and that he "*might get kicked out if I can't pay for Feb*". He said he had already paid his February rent to Ms. LL, and did not expect to have to pay February's rent again. He went back to the residence looking for Ms LL on at least two occasions in an attempt to get his rent money back and at the appeal said that he is struggling. At the appeal he also said that he had no money.

Ministry's Position

The ministry relied on the reconsideration decision, which found that because the ministry believed the February rent money had been returned to the Appellant, the ministry was not satisfied that the

Appellant had exhausted all the resources available.

Panel Finding

The panel finds that it was not reasonable for the ministry to accept, on the basis of a phone call and nothing else, the former landlady's assertion that she had paid the Appellant back the rent money when he was adamant that she had not and he could not find her to demand it back, that he has no money and is in danger of being forced out of his new accommodation without money, and that the appellant is unable to meet the expense of February's rent because he has no resources available.

The panel finds that the determination at reconsideration that the Appellant's need for a crisis supplement for shelter because he has not exhausted all resources available was not reasonably supported by the evidence and was not a reasonable application of the applicable enactment, namely section 57(1)(a) *EAPWDR*, in the circumstances of the Appellant.

Section 59(1)(b)(i) *EAPWDR* – Failing to Meet an Unexpected Expense will result in Imminent Danger

At reconsideration the ministry was satisfied that failure to receive a crisis supplement for shelter may result in imminent danger to the Appellant's physical health as he could lose the residence in which he is currently living.

The panel notes that the determination at reconsideration that the Appellant will result in imminent danger to the Appellant's physical health was not in issue at this appeal.

Conclusion

The panel finds that the ministry determination at reconsideration that the Appellant's need for a crisis supplement for shelter did not meet the legislated criteria was not reasonably supported by the evidence and was not a reasonable application of the applicable enactment, namely section 57(1)(a) and (b) *EAPWDR* in the circumstances of the appellant.

The panel rescinds the ministry's decision and the Appellant is successful in his appeal.