

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the "Ministry") reconsideration decision, dated June 19, 2017 (the "Reconsideration Decision"), in which the Ministry found that the Appellant was not eligible for a crisis supplement for hydro at a home the Appellant shares with her son (the "Property"), pursuant to section 59 of the *Employment and Assistance Regulation* ("EAR").

## PART D – Relevant Legislation

Section 4, *Employment and Assistance Act* (EAA)  
Section 59, EAR

## PART E – Summary of Facts

The Ministry was not in attendance at the hearing. After confirming that the Ministry was notified, the hearing proceeded under section 86(b) of the EAR.

The evidence before the Ministry at reconsideration consisted of the following:

- A printed copy of an online account summary from BC Hydro, for the billing period May 2 to June 28, 2017 for the Property showing a balance owing of \$1,289.89;
- The Appellant's Request for Reconsideration ("RFR"), dated June 13, 2017;
- A copy of a notice of disconnection from BC Hydro to the Appellant, dated December 1, 2014;
- A copy of a letter from BC Hydro to the Appellant's son, dated March 21, 2017, detailing a payment plan setup to pay off the balance owing on the BC Hydro account, which was then \$1,084.37;
- A copy of a bill from Fortis BC to the Appellant, for the billing date of June 28, 2017, showing the amount due as \$185.03;
- A notice of disconnection from Fortis BC to the Appellant, dated May 24, 2017, showing an overdue balance of \$240.33;
- A copy of the Residential Tenancy Agreement between the Appellant and her son and the owner of the Property dated May 21, 2016.

In her Notice of Appeal, dated June 9, 2017, the Appellant stated that:

- Hydro is an essential service;
- Food can not be kept without hydro;
- BC Hydro will not negotiate the amount owing on the account.

At the hearing of the appeal, the Appellant gave the following evidence:

- she had made an error in not advising the Ministry that she had been residing at the Property since approximately last fall and had not filed an address change with the Ministry because her cousin, with whom she had been staying, lives nearby;
- the Property was abandoned many years ago and the current owners allowed her son and the Appellant to clean it up and live there;
- she had started to sleep some nights at the Property some time in the fall of 2016 and moved in to the Property full-time in or about February or March of 2017;
- the total rent for the Property is \$1,000.00 per month, of which the Appellant pays \$400.00;
- the Appellant's son pays most of the expenses related to the Property;
- the Property has a furnace heating system but due to lack of use and the discovery of dead animal carcasses in the furnace, she and her son did not feel comfortable using the furnace and opted instead to heat the Property by the use of space heaters during the winter;
- although she is authorized to deal with BC Hydro for the account for the Property and can access it, the BC Hydro account for the Property is in the name of her son;
- of the amount owing to BC Hydro, \$390.00 is a security deposit;
- BC Hydro disconnected the electricity to the Property in or about May, 2017;
- BC Hydro will not reconnect the electricity until the arrears are paid in full.
- although her son works in the construction industry and works full-time presently, he has significant transportation and commuting costs and would not be able to pay the amount required to put the BC Hydro account in good standing;

- the Appellant's cousin, with whom she had stayed can also not assist the Appellant with the payment of the amount owed to BC Hydro as she is recently retired;
- The Appellant has worked as a designer in the past and is hopeful of returning to that line of work in the future but her ability to work is compromised by the lack of electricity at the Property;
- the lack of hydro is not just an inconvenience and that hydro is an essential service;
- the Ministry had advised her that they could potentially negotiate a reduced amount for the security deposit required by BC Hydro.

## PART F – Reasons for Panel Decision

The issue under appeal is whether the Ministry's decision that the Appellant was not eligible for a crisis supplement for an outstanding account with BC Hydro was a reasonable application of the legislation or was reasonably supported by the evidence.

### ***Relevant Legislation***

Section 59 of the EAR authorizes the Ministry to provide crisis supplements to eligible recipients as follows:

- 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.

[am. B.C. Reg. 12/2003.]

## ***Positions of the Parties***

### **Appellant's Position**

The Appellant's position is that hydro is an essential service the absence of which makes it difficult for her to work as a designer, among other problems that it creates. She states that she does not have anyone else to turn to, as her son already pays most of the expenses related to the Property and has significant transportation costs in order to get to and from work and her cousin, with whom she has stayed in the past, is recently retired and also can not assist the Appellant. The Appellant had hoped that the Ministry could negotiate on her behalf for a reduced security deposit and could pay the outstanding hydro account as a crisis supplement and deduct the amount from her future assistance. The Appellant also took the position that the payment plan devised by BC Hydro, as set out in its March 21, 2017 letter to the Appellant's son was not a reasonable plan and advised that she felt that the Ministry's decision not to pay the outstanding hydro account was the result of her name not being on the account and that she had made a mistake in not filing a change of address with the Ministry sooner.

### Ministry's Position

No representative attended the hearing on behalf of the Ministry, despite the Ministry having been given notice of the date and time of the hearing of the appeal.

The Ministry's position was set out in the Reconsideration Decision. The Ministry decided that the Appellant had not satisfied it, in that the crisis supplement sought (in respect of the outstanding BC Hydro account) was the result of an unexpected need or that it was an unexpected expense because the Appellant's son appeared to have entered into a payment plan with BC Hydro in March of 2017.

It is unclear from the Reconsideration Decision whether the Ministry decided that the Appellant had also failed to show that she did not have the resources available to her to pay the outstanding BC Hydro account. The Reconsideration decision reads that "the Minister is satisfied that you do not have the resources available to pay the amount owing to BC Hydro" but then goes on to read that "Requirement #2 has not been met." For the purpose of this appeal, the panel has assumed that the Ministry was satisfied that the Appellant did not have the resources available to pay the outstanding BC Hydro account.

With respect to the requirement that the Ministry be satisfied that failure to meet the expense or obtain the item will result in imminent danger to the physical health of a person in the family unit, the Minister's position, as set out in the Reconsideration Decision, is that "while not having electricity is inconvenient, at this time of year heat is not required the (sic) meet a basic necessity" and that there was no evidence before it that the Appellant had any medical conditions that would be made worse by not having electricity or that the failure to pay the outstanding BC Hydro account would result in imminent danger to the Appellant's physical health.

### **Panel's Decision**

Section 59(1) of the EAR sets out three criteria that must be met in order for any crisis supplement to be issued by the Ministry.

First, an applicant for a crisis supplement must satisfy the Ministry that "the family unit or a person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed."

Secondly, an applicant must demonstrate that he or she "is unable to meet the expense or obtain the item because there are no resources available to the family unit."

Finally, the Ministry must be satisfied 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*."

The Appellant indicated that she had wanted the Ministry to assist her with negotiating a lower security deposit with BC Hydro, as she had been advised by a Ministry representative that the Ministry could do so. The Appellant appears to have subsequently been advised that the reason the Ministry could not do so was because her son's name was on the BC Hydro account and not hers. However, the panel was not directed to any legislative authority permitting or requiring the Ministry to assist a recipient of income assistance with the negotiation of a debt and the assistance that the Ministry is limited and authorized by statute to provide in circumstances such as those of the Appellant is the provision of a crisis supplement, where an applicant can meet the criteria set out in section 59(1) of the EAR.

With respect to the first criteria, while the Appellant gave evidence about the increased cost of heating the Property due to the use of space heaters during the winter, the panel finds that it would not be unexpected that the use of space heaters would lead to significantly higher electricity bills. While the electrical bills and correspondence from BC Hydro provided by the Appellant show the amount owing to BC Hydro as at March 21, 2017 and approximately the end of May, 2017, respectively, it is not clear as to how long a period of time it took to incur the charges that were overdue and the letter, dated March 21, 2017, suggests that the payment plan with BC Hydro, which the Appellant and the Appellant's son were unable to follow, had been arranged in consultation with the Appellant's son. In view of the foregoing, the panel finds that the Ministry's decision that the expense was not unexpected was reasonable.

Given the lack of explanation as to why "Requirement #2 has not been met" in the Reconsideration Decision and the fact that the Reconsideration Decision also noted that "the Minister is satisfied that you do not have the resources available to pay the amount owing to BC Hydro", the panel concludes that the Reconsideration Decision had meant to state that the Ministry accepted that the Appellant *did not* have the resources to pay the outstanding BC Hydro account. However, if the panel is wrong in this interpretation, the panel finds that there was little evidence before the Ministry at the time of reconsideration as to the availability of resources to pay the outstanding BC Hydro account. Likewise, despite the Appellant's evidence that her son is unable to pay the outstanding BC Hydro account, the Appellant did not provide specifics as to her son's income other than to confirm that he was working full-time at present but had significant transportation costs. As such, had the Ministry concluded that the Appellant had failed to demonstrate that there were no resources to pay the outstanding BC Hydro account, the panel finds that such a conclusion would not necessarily have been unreasonable.

Finally, with respect to the requirement that the Ministry be satisfied that failure to pay the outstanding BC Hydro account, would result in imminent danger to the Appellant's physical health, the Appellant did not give any evidence relating to a physical condition or conditions from which she was suffering that was being negatively impacted by the lack of electricity at the Property. While the panel agrees with the Appellant that not having electricity is more than an inconvenience, section 59(1)(b) of the EAR would require the Ministry to be satisfied, in this case, that not having electricity poses an "imminent danger" to the Appellant's "physical health." The panel finds that, based on the evidence before it at reconsideration, the Ministry's decision that there was insufficient evidence that the lack of electricity posed an imminent danger to the Appellant's physical health was not unreasonable.

In the result, the panel finds that the Ministry's decision that the Appellant had not satisfied the criteria set out in section 59(1) of the EAR and was not eligible for a crisis supplement was reasonably supported by the evidence and was a reasonable application of section 59(1) of the EAR.