

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry) reconsideration decision dated July 18, 2017 which denied the appellant's request for a crisis supplement to cover the cost of an utility expense, specifically gas. The Ministry held that all of the requirements of Section 57 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) were not met as the ministry found that:

- There was insufficient evidence to show that the gas expense was unexpected; and,
- There was insufficient evidence to show that failure to pay the gas expense will result in imminent danger to the appellant's physical health.

PART D – Relevant Legislation

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), Section 57

Employment and Assistance for Persons With Disabilities Act (EAPWDA), Section 5

PART E – Summary of Facts

The ministry did not attend the hearing. After confirming that the ministry was notified, the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation.

The evidence before the ministry at the time of the reconsideration decision included:

- 1) Notice of Disconnection dated June 23, 2017 from the gas supply company, indicating the amount of \$373.68 is overdue and that if the service is disconnected, a security deposit and a reactivation charge of about \$90 will be required;
- 2) Letter dated July 11, 2017 in which a local outreach program coordinator wrote that the appellant had discussed his Notice of Disconnection with them but they are not able to assist with paying the gas bill; and,
- 3) Request for Reconsideration dated July 14, 2017.

In his Request for Reconsideration, the appellant wrote that:

- He has been trying to find supplemental work, but to no avail.
- After he got caught up on the electric bill, the bill for the gas got out of hand because of the breakdown and the month it took to get the help he needed for repairs.
- The gas service will be turned off on July 19, 2017 if not dealt with, with another \$100 to re-connect and \$25 for some other charges.
- If he does not get help, the charges will be out of reach for him to catch up.
- Without gas, there will be no heat in the winter and no hot water to stay clean and healthy.
- If he uses electricity on the stove and oven, it will send the hydro bill out of reach.
- He has no family and no friends that can or will help.
- He has tried others, like the community outreach program, but they say they have no monies left this month.
- He is also looking for a roommate but they are far between.
- He is paying \$720 per month rent and there are no apartments for any cheaper.
- He cannot afford to move. He has been there for 15 to 20 years in the same trailer and has collected quite a few things in his home.

Additional information

In his Notice of Appeal dated July 18, 2017, the appellant expressed his disagreement with the ministry reconsideration decision and wrote that:

- There is no way to catch up to his gas bill, especially when they are going to add more money to re-hook.
- Disability is not enough to pay it.
- He has tried to ask several places, to no avail. He has no family alive and no friends to help.
- He has no phone, and he is running out of insurance for his vehicle, which he is trying to sell but nobody has the money.
- He cannot afford to move and, even if he could, there is no place cheaper in his community or surrounding area.
- He has lived in a trailer that holds enough, and he would need an amount that would be more than the gas bill to rent a moving van or truck and he would not be able to move anything because of his back condition.
- He has no friends that will help because they are not close and do not care.

Prior to the hearing, the appellant provided a letter dated July 19, 2017 in which he wrote that:

- He contacted the gas company and they told him they cannot give him anymore time to keep his gas going and if they turn it off there will be an additional charge of \$120, and \$734 will need to be paid before he can get gas again.

- There are no cheaper places to rent.
- He would have to hire movers to move and it would be thousands of dollars to rent a truck.
- He has no vehicle because his insurance has run out.
- He has been at the same address 15 to 20 years.

At the hearing, the appellant's advocate stated that:

- He has known the appellant for 20 years and has had several dealings with him, but the appellant only recently consulted him about this appeal.
- While it is generally known that gas bills have to be paid regularly, the appellant is a Persons With Disabilities (PWD) and there are cognitive issues that "have come to light." When a person is dealing with cognitive issues, it is hard to say what is "expected" for them.
- The appellant has difficulty dealing with money. He and his mother got duped twice sending money to get a loan that was never forthcoming.
- They have been trying to get the appellant into the CLBC [Community Living B.C.] program so he would have lots of support in the community. This program is geared to those with an IQ less than 70.
- The appellant's furnace broke down and he needs gas supply to heat his home. The use of electricity to heat his home is not reasonable since he has to turn on his stove and oven and open the door, which is not efficient. The appellant has tried electric space heaters, but they blow the fuses because the trailer is old and only has a 40-amp power supply.
- The gas service also heats his hot water tank and the appellant has taken advantage of organizations that offer free laundry services and a place to take a shower. It is a long way for the appellant to walk to these organizations.
- The appellant has no one else to pay the outstanding gas account and, in the winter time, he "...is going to die." His sole heating source is natural gas. He will end up being another homeless person on the streets.
- The appellant had a credit on his gas account at one point and he did not use it to pay for gas supply. The ministry has not considered that the appellant is a PWD with cognitive problems that may have caused him to not make the best decision.
- After all his expenses are paid, the appellant only has \$30 left to pay for food for the month.
- Everyone knows that rent is not affordable on assistance rates.
- The appellant is trying to sell his vehicle and he is also trying to get a roommate to have more money available. There is no other way that he can pay the outstanding bill.
- The ministry is already paying the appellant's hydro bill directly because of problems with the appellant getting this account paid.
- When the appellant applied for PWD designation, there would have been information submitted about his physical and mental impairment, but they do not have any medical information available for the hearing.
- The appellant's mother helped him when she was alive but, since she has been gone, there has been no one to look out for him.

At the hearing, the appellant stated that:

- The assistance rates will increase by \$100 per month at the end of September so that, if he can get over this hump of the outstanding gas bill, he should be okay going forward.
- This issue has been stressing him out. He has been told he has high blood pressure and that stress is causing other health issues.
- He lost the insurance on his vehicle and he has been trying to find part-time work. He has advertized his vehicle for sale but it seems people do not have the money to buy it.
- He pays \$720 per month for rent, but there is no cheaper place for him to live. He has a trailer full of furniture and he would need to move it. He has no credit. His back is against the wall.

- He was renting to own the trailer but he had a roommate before that was not responsible and left him “holding the bag.” His “rent to own” plan was ruined and his mother passed away 5 or 6 years ago.
- His furnace broke down so he lost his heat. He used the electricity for a while.
- He has been beaten around his head with various objects, and he also has Hepatitis C.

The ministry relied on its reconsideration decision and did not attend the hearing to provide information.

Admissibility of additional information

The panel admitted the information in the appellant’s Notice of Appeal and his additional letter dated July 19, 2017 as it was either before the ministry at reconsideration or was in support of information and records before the ministry at reconsideration, since it tended to substantiate that information, pursuant to Section 22(4) of the *Employment and Assistance Act*. The panel did not admit the portions of the oral testimony on behalf of the appellant that related to his alleged cognitive difficulties. The panel finds that this information was not raised at reconsideration and does not tend to corroborate information provided by the appellant at reconsideration and is, therefore, not in support of information and records before the ministry at reconsideration and does not meet the admissibility test in Section 22(4) of the *Employment and Assistance Act*.

PART F – Reasons for Panel Decision

The issue on the appeal is whether the ministry's decision, which denied the appellant's request for a crisis supplement to cover the cost of a gas expense as all of the requirements of Section 57 of the EAPWDR were not met, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the appellant's circumstances.

Section 57(1) of the EAPWDR sets out the eligibility requirements which are at issue on this appeal for providing the crisis supplement, as follows:

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*.

Panel decision

In the reconsideration decision, the ministry was satisfied that the appellant's request for a crisis supplement met one criterion in Section 57 of the EAPWDR, namely that the appellant does not have alternate resources available, but did not meet the two remaining criteria. The ministry wrote that there was not sufficient information that the appellant's gas bill is unexpected or that he experienced an unexpected expense that has prevented him from paying his bill. The ministry reasonably considered that the appellant had a credit on his gas account in October 2016 and he requested that this be paid out to him so that he could pay his monthly truck payment of \$168, rather than maintaining the credit to assist with ongoing gas payments. The ministry also reasonably considered that the appellant had previously requested a crisis supplement for the gas account, and his request was denied. The ministry wrote that nothing has changed about the appellant's situation as his bills exceed his monthly assistance and, as a result, he finds himself at disconnection again.

At the hearing, the appellant's advocate argued that while it is generally known that gas bills have to be paid regularly, the appellant is a PWD and the appellant has difficulties dealing with money. The advocate stated that the ministry is already paying the appellant's hydro bill directly to the hydro service provider because of problems with the appellant getting this account paid. The panel finds that the ministry reasonably determined the requirement to pay for regular gas service is not an unexpected expense, and there was no claim by the appellant that the Notice of Disconnection dated June 23, 2017 had been issued by the gas service company for an extraordinary expense, or some charge beyond payment for regular gas supply. It is not unexpected that failing to pay for the use of gas services will result in a disconnection notice and eventual disconnection of the service and/or the requirement for a security deposit. The panel finds that the ministry reasonably concluded that the gas expense was not unexpected, as required by Section 57(1)(a) of the EAPWDR.

The ministry was not satisfied that there was sufficient evidence to show that failure to pay the outstanding gas expense will result in imminent danger to the appellant's physical health. The ministry wrote that the appellant is able to access heat for his house and water through the hydro company and this utility is available for him to use.

At the hearing, the appellant's advocate argued that the use of electricity to heat the appellant's home is not reasonable since he has to turn on his stove and oven and open the door, which is not efficient. The appellant has tried electric space heaters, but they blow the fuses because the trailer is old and only has a 40-amp power supply. The advocate argued that the appellant has no one else to pay the outstanding gas account and, in the winter time, his sole heating source is natural gas and, without it, he "...is going to die." In his Request for Reconsideration, the appellant wrote that without gas, there will be no heat in the winter and no hot water to stay clean and healthy. The appellant also wrote in his Request for Reconsideration that if he uses electricity on the stove and oven, it will send the hydro bill out of reach. While it may not be efficient for the appellant to heat his home and water using electricity, the panel finds that the ministry is reasonable to consider this as a resource available to the appellant to meet a basic need for heat.

The panel also notes that the meaning of the word "imminent" has a sense of urgency – i.e. "impending; about to happen" and there was also no evidence of impending or imminent danger to the appellant's physical health, particularly as the appellant's request was made on July 5, 2017, in the summer. Therefore, the panel finds the ministry's determination that it was not satisfied that the failure to meet the outstanding gas expense will result in imminent danger to the appellant's physical health, as required by Section 57(1)(b) of the EAPWDR, to be reasonable.

Conclusion

The panel finds that the ministry's reconsideration decision, which denied the appellant's request for a crisis supplement for the cost of a gas expense because all of the requirements of Section 57 of the EAPWDR were not met, was reasonably supported by the evidence and the panel confirms the ministry's decision. The appellant's appeal, therefore, is not successful.