

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction's ("ministry") reconsideration decision dated August 4, 2017 in which the ministry denied the appellant's request for a crisis supplement to pay her outstanding rent. The ministry determined that the appellant's request for a crisis supplement did not meet all of the requirements in section 59 of the Employment and Assistance Regulation (EAR). The ministry found that three criteria in EAR section 59(1) were not met:

- Section 59(1)(a): The family unit requires the crisis supplement to meet an unexpected expense or obtain an item unexpectedly needed;
- Section 59(1)(a): The family unit is unable to meet the expense or obtain the item because there are no resources available; and
- Section 59(1)(b): The minister considers that failure to meet the expense or obtain the item will result in imminent danger to the physical health of any person in the family unit, or removal of a child under the *Child, Family and Community Service Act*.

PART D – Relevant Legislation

Employment and Assistance Regulation, section 59

PART E – Summary of Facts

The evidence before the Ministry at reconsideration consisted of:

1. A Request for Reconsideration (“RFR”) signed by the appellant on July 26, 2017 with an attached one page submission in which she provided her argument and indicated that she was making a second request for a crisis supplement and has the support of a tenancy organization. The panel will consider both parties’ arguments in *Part F - Reasons*.
2. A *10 Day Notice to End Tenancy for Unpaid Rent and Utilities* addressed to the appellant and signed by her landlord on July 20, 2017. The notice states that the appellant failed to pay rent in the amount of \$937.02 that was due on July 1, 2017 and she must move out of her suite by July 30, 2017.
3. The ministry’s denial letter dated August 4, 2017, stating that the appellant is not eligible for a crisis supplement to pay her outstanding rent.
4. Information from the reconsideration record, with the following background details:
 - The appellant is a sole recipient of income assistance who receives monthly assistance of \$610 [\$235 support plus \$375 shelter]. Another provincial benefit is deducted from her assistance.
 - She has been living at her residence since June 2015. Her monthly rent is \$530 and the ministry issues rent payments of \$429.09 directly to the landlord.
 - In June 2016, the ministry advised the appellant that she would be required to make up the difference each month from her provincial benefits.
 - In August 2016, the appellant’s rent increased to \$550 and in April 2017, the payments to the landlord increased to \$426.84.
 - In December 2016, the appellant was issued a crisis supplement after she submitted an eviction notice and stated that she did not realize that she was required to pay the difference between the amount issued directly to the landlord by the ministry, and her actual rent. The ministry reminded her that she was required to top up her rent.
 - On February 24, 2017, the appellant advised that she had received an eviction notice due to non-payment of rent in the amount of \$375.
 - In March 2017, the appellant reported that she owed the landlord back rent of \$321.
 - On March 28, 2017, she explained that the balance owing had increased since the crisis supplement was issued in December 2016 and she did not have funds to pay the difference.
 - On July 20, 2017, she submitted an eviction notice for non-payment of rent in the amount of \$937.02 as she did not pay the difference between the monthly rent and the amount the ministry issues directly to the landlord on her behalf. She stated that she was not aware that she was required to pay a portion of her rent and requested a crisis supplement to pay the outstanding balance. The ministry denied her request advising that it may not be able to issue funds for an ongoing issue that is no longer unexpected.
 - On July 21, 2017, the ministry reviewed the appellant’s file noting that she had received a crisis supplement for the exact same reason in December 2016 and had requested a crisis supplement for shelter “a few times since her last request.”
 - On July 26, 2017, the appellant returned her RFR forms advising that she has a new tenancy support system to assist her to pursue a long-term solution with her finances, but she was still being evicted from her suite.

Additional submissions

With the consent of both parties, the appeal proceeded as a written hearing pursuant to section 22(3)(b) of the *Employment and Assistance Act*.

Appellant

Subsequent to the reconsideration decision, the appellant submitted her *Notice of Appeal* dated August 11, 2017 in which she provided her argument on appeal and stated that she will be evicted from her current housing and could end up homeless. In her fax cover sheet of the same date she provided further argument on her need for a crisis supplement.

Ministry

In a letter to the tribunal dated August 30, 2017, the ministry indicated it was relying on the reconsideration decision as its written submission on appeal. The ministry provided additional argument by citing subsection 59(4)(b) of the EAR which states that the amount that may be provided for a crisis supplement in a calendar month is limited to the maximum shelter rate set out in section 4 of Schedule A of the Regulation for a family unit that matches the applicant's family unit [\$375 in the appellant's circumstances].

The panel accepts both parties' submissions as argument in support of their positions at reconsideration. The appellant also filed a late submission dated September 8, 2017 and faxed to the Tribunal. The submission was comprised of copies of her Notice of Appeal with fax cover sheet [notation] and a copy of the *10 Day Notice to End Tenancy for Unpaid Rent or Utilities* dated July 20, 2017. Under the Tribunal's *Guidelines for Members - Late Submissions Written Hearing*, the panel chair did not accept the late submission for the reason that it consisted of documents that were identical to those already filed for the reconsideration and appeal. As the submission did not contain any new information, the panel chair determined that there was no prejudice to either party in not accepting it.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's reconsideration decision of August 4, 2017 that denied the appellant's request for a crisis supplement for rent because her request did not meet three criteria under section 59 of the EAR was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. The ministry found that the appellant's request for a crisis supplement did not meet the "unexpected need" and "no resources available" criteria in EAR section 59(1)(a), or the "imminent danger" to physical health criterion in EAR section 59(1)(b).

The following sections of the EAR apply to crisis supplements:

EAR Crisis supplement:

Pursuant to section 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;
 - (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.

The three criteria the ministry found were not met are addressed as follows:

EAR section 59(1)(a): the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed

In her RFR, the appellant argued that while she was denied the crisis supplement on the grounds that it was not deemed as unexpected, her second request is accompanied by a “new support system” to assist her to “pursue a long-term solution”, unlike her previous situations. She submits that if she is able to remain in her current place of residence, she can access tenant support services for financial advice “to ensure my monetary funds, specifically regarding my housing, are accounted for.”

In the reconsideration decision, the ministry argued that the legislative criterion for an unexpected need/ expense was not met. The ministry noted that in December 2016, the appellant received a crisis supplement to pay her overdue rent at that time. As well, the appellant was advised that she must subsequently pay the monthly difference in the rent.

Panel’s decision – unexpected expense/ need

The panel finds that the ministry reasonably determined the appellant’s outstanding rent [totalling \$937.02 and due on July 1, 2017] was not an unexpected expense as required under EAR section 59(1)(a). This section authorizes the ministry to provide a crisis supplement only if the expense or need for an item is unexpected, and if all other requirements in section 59(1).are also met.

The record of decision indicates the appellant had been living at her residence since 2015 and in June 2016 the ministry advised that she would be required to make up the difference in rent each month from the provincial benefits that she receives. As noted by the ministry, the appellant was reminded in December 2016 that she was” required to top up her rent” after she was issued a crisis supplement that same month for the same set of circumstances concerning an eviction notice for unpaid rent. The ministry advised her that her rent arrears were no longer considered unexpected.

While the record indicates that the appellant told the ministry she did not know she had to make up the difference in the rent, the evidence confirms that she was advised of her obligation on two occasions as noted above [June and December 2016]. Regarding the appellant’s argument that her new support system will help ensure the situation with unpaid rent does not repeat itself, the presence or absence of a support system does not change her obligation to contribute her portion of the rent on a monthly basis from her own funds. The panel therefore finds that the ministry reasonably determined that the appellant’s request for a crisis supplement was not for an unexpected need or expense and the ministry was therefore reasonable in finding that the criterion under EAR section 59(1)(a) was not met.

EAR section 59(1)(a): the family unit is unable to meet the expense or obtain the item because there are no resources available

In her RFR, the appellant argued that she has applied for federal benefits in order to become more financially secure and better able to handle her financial affairs. She noted that she has been offered a tenant support program which she must comply with in order to avoid being evicted. In her fax cover sheet on appeal, the appellant indicated that she has insufficient resources as she “need(s) more financing.”

In the reconsideration decision, the ministry argued that the criterion of *no resources available* was not met because the appellant's shelter allowance is intended to pay her monthly rent and "because you have decided to rent accommodations that exceed your monthly shelter allowance does not change the fact that you were provided with funds for this purpose."

Panel's decision – no resources available

The panel finds that the ministry reasonably determined the appellant's request for a crisis supplement for outstanding rent does not meet the criterion of having no resources available to meet the expense as required by EAR section 59(1)(a). As noted by the ministry, the appellant receives the maximum shelter allowance of \$375 per month to cover her shelter costs and while her shelter costs are higher than the shelter allowance, the shelter funds are still intended to cover rent. While the panel sympathizes with the appellant's struggles to stretch her limited resources to cover her living expenses, the panel finds that the ministry was nevertheless reasonable in determining that the criterion in section 59(1)(a) of the EAR was not met. As argued by the ministry, the appellant has resources because she receives assistance [support and shelter] from the ministry each month.

EAR subsection 59(1)(b): failure to meet the expense or obtain the item will result in imminent danger to the physical health of any person in the family unit, or removal of a child under the Child, Family and Community Service Act

The appellant's main arguments are around imminent danger to her health. She stated that if her RFR was denied she will "be put in imminent danger of homelessness." In her appeal submissions, she disagreed with the ministry's decision arguing that failure to obtain the shelter crisis supplement will cause her to be evicted from her current housing. She argued that she could end up homeless, making her unable to cook for herself, leaving her without food or sanitation, and putting her at danger of sickness and "Grippe A", as well as the general danger of homeless living.

The ministry argued that the eligibility requirement for imminent danger has not been met because there is insufficient evidence "to support a probability of immediacy that failure to obtain funds to pay your outstanding rent will place your physical health in imminent/ immediate danger."

Panel's decision – imminent danger to physical health

Section 59(1)(b) of the EAR requires evidence of a direct link between not obtaining the crisis supplement for the requested item and imminent danger to physical health or removal of a child from the home. The criterion is met only if the failure to obtain the crisis supplement to pay the expense or obtain the requested item will result in imminent danger to physical health or the removal of a child under the *Child, Family and Community Service Act*.

The panel finds that the ministry reasonably determined there is insufficient evidence of any imminent/ immediate danger to health. The appellant did not provide any medical documentation to confirm that her health will be in danger if she does not receive the crisis supplement for rent. While the panel acknowledges the appellant's concerns about eviction/ possible homelessness and associated health hazards, the panel finds that the ministry reasonably determined that this information was insufficient evidence of imminent danger to physical health under section 59(1)(b) of the EAR.

Ministry's submission on appeal

In its letter to the Tribunal of August 30, 2017, the ministry noted that the maximum shelter allowance for the appellant's family unit is \$375 under Schedule A of the EAR. The ministry further noted that in accordance with subsection 59(4)(b) of the EAR, the amount that may be provided for a crisis supplement for shelter in a calendar month is "limited to the maximum shelter rate set out in section 4 of Schedule A." The ministry argued that even if the appellant's request had met all other crisis supplement criteria, a crisis supplement of \$375 "may not resolve her issue in that she is required to pay \$937.02 to avoid her eviction." The panel finds that the ministry has reasonably applied the legislation in the circumstances of the appellant as she is entitled to a maximum shelter allowance of \$375 per month pursuant to the Regulation.

Conclusion

The panel finds that the ministry's reconsideration decision finding the appellant ineligible for a crisis supplement for rent because her request did not meet three criteria in EAR section 59(1) was reasonably supported by the evidence. The panel confirms the decision and the appellant is not successful in her appeal.