

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation, renamed the Ministry of Social Development and Poverty Reduction (the “Ministry”) reconsideration decision dated August 30, 2017 which held that the appellant was not eligible for a crisis supplement in the amount of \$250.00 to pay for her August rent. The Ministry held that although the appellant met one of the criteria of s.59(1) of the Employment and Assistance Regulation (“EAR”), being that she did not have the resources available to pay for the item, the Ministry found that appellant failed to meet the other two criteria of s.59(1) EAR, being that the need for the item was not unexpected to the appellant, and a failure to obtain the item would not result in imminent danger to the physical health of the appellant or the removal of a child from the appellant’s family unit.

PART D – Relevant Legislation

s.59(1) and s.85(2) Employment and Assistance Regulation (“EAR”)

PART E – Summary of Facts

The evidence before the Ministry at Reconsideration:

- The appellant is a sole recipient of assistance and has been since April 24, 2017.
- The appellant receives \$895 per month and that amount includes \$235 for support allowance, \$375 for a shelter allowance, and a child in care temporary absence top up for \$285.00.
- \$20 is deducted from the appellant's assistance for repayment.
- The appellant receives \$338.53 per month from BC Housing.
- On July 18, 2017 the appellant submitted a shelter information form indicating she was moving into a new property where she would pay \$850 per month. The appellant requested a security deposit of \$450 from the Ministry.
- On July 26, 2017 the appellant provided a receipt for \$200 towards her security deposited and advised the Ministry that the cheque made out to the landlord for the security deposit was stolen.
- The Ministry determined that the cheque had been cashed and requested a copy of the cheque to verify if it was endorsed. The Ministry determined that the cheque was endorsed by the appellant.
- On August 2, 2017 the appellant informed the Ministry that she signed the cheque and took it to the bank and that the bank would not cash it. The appellant says she then returned home with the endorsed cheque which was stolen.
- On August 16, 2017 the appellant submitted a notice of arrears to the Ministry showing that she owed \$250.00 to her landlord and if arrangements were not made an eviction notice would be forthcoming.
- The Ministry denied the appellant's request for a crisis supplement because the Ministry found that appellant failed to demonstrate what was unexpected that prevented her from paying her rent.
- On August 21, 2017 the appellant submitted an eviction notice and bank statements for June and July. The appellant also submitted a written note pointing out that her banking information shows no deposit of the cheque in question.
- On August 28, 2017 the appellant submitted her request for reconsideration and wrote: "I did not cash or pay damage deposit cheque and I am going to be homeless."
- The Ministry notes that during the making of the decision the Ministry contacted the appellant's landlord to verify the amount owing. During the conversation the landlord advised the Ministry that as the appellant did not pay the amount owing within the 5 days allowed, she was required to vacate on August 31, 2017 regardless of if she had the \$250.00.
- A letter from the appellant's landlord dated August 28, 2017 advised the appellant that she has not paid the balance of the \$250.00 owing on her August rent and that her move out date is August 31, 2017 at 1pm.
- The appellant's request for reconsideration states that she did not cash the cheque and that she is going to be homeless. She asks the Ministry to "call her landlord to verify".
- A 10-day notice to end tenancy for unpaid rent dated August 21, 2017 to the appellant from her Landlord.
- A notice of arrears form dated to the appellant from her landlord advising the appellant to pay her arrears by August 18, 2017.

A written submission by the appellant which provided:

- The appellant received a cheque for \$425.00 which she picked up from the office downtown.
- The appellant states that a friend of hers told her that someone stole and deposited the cheque.
- The appellant states that she is working to become stable and wants to get her children back in her care.
- The appellant provides her unlimited chequing account transactions from June 2, 2017 to July 31, 2017 which shows that the cheque from the Ministry was not an account transaction during this period.

The appellant's Notice of Appeal which states:

- The appellant has tried all resources and she is homeless again
- She states that the account information does not match where the cheque was cashed
- She states that she did not cash the cheque.

At the hearing

The appellant did not attend at the location of the hearing at 9:30am on September 26, 2017 for the hearing. The panel finds that the appellant was informed verbally of the hearing details on September 11, 2017 by the tribunal and at that time the appellant confirmed the date, time and location of the hearing. The appellant does not have a fixed address and all correspondence to her is sent to the local Ministry office. The notice of hearing, dated September 11, 2017 was addressed to the appellant at the local Ministry office. The panel finds that in accordance with s.85(2) of the Employment

and Assistance Regulation ("EAR"), the appellant was notified via telephone and at her address for service of the date, time and location of the hearing within the permitted timelines. The panel proceeded with the hearing in the absence of the appellant.

At the hearing the Ministry relied on their reconsideration decision and reiterated the following:

- The Ministry does not believe that this was an unexpected expense as the cheque was endorsed by the appellant.
- The Ministry's position is that the bank statements are inconclusive, because the cheque could have been cashed at a different bank.
- The Ministry re-iterated that there was no concern with children being removed and there was not an imminent threat to physical safety.
- The Ministry has in their possession a copy of the cheque but they did not bring it to the hearing.

PART F – Reasons for Panel Decision

The issue on appeal is if it was reasonable for the Ministry to determine that the appellant was not eligible for a crisis supplement in the amount of \$250.00 to pay for her August rent. Specifically was it reasonable for the Ministry to determine that although the appellant met one of the criteria of s.59(1) of the EAR, being that she did not have the resources available to pay for the item, the appellant did not meet the other two criteria of s.59(1) EAR, being that the need for the item was not unexpected to the appellant, and a failure to obtain the item would not result in imminent danger to the physical health of the appellant or the removal of a child from the appellant's family unit.

The legislation provides:

EAR

Crisis supplement

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.

Time period for scheduling and conducting hearing

85 (1) A hearing must be held within 15 business days after the appeal form is delivered under section 84, unless the chair of the tribunal and the parties consent to a later date.

(2) The chair of the tribunal must notify the parties of the date, time and place of a hearing described in subsection (1) at least 2 business days before the hearing is to commence.

The panel finds:

The appellant states in her notice of appeal and in her request for reconsideration that she is going to be homeless if she is not able to make the August rent payment to her landlord. The appellant's bank statements show that she generally carries a small balance of under \$100 dollars in her bank account. The panel finds that it was reasonable for the Ministry to determine that pursuant to s.59(1)(a) EAR, the appellant does not have the resources available to pay the remaining August rent that she owes. Although the appellant provides evidence that she is going to be homeless, she does not provide evidence that there will be imminent danger to her physical health if she does not receive the crisis supplement for her August rent. The appellant also does not provide evidence that a failure to receive the crisis supplement will cause the removal of a child pursuant to the Child, Family and Community Service Act. The panel finds the Ministry decision that the appellant hasn't established that there will be imminent danger to her physical health or the removal of a child pursuant to the Child, Family and Community Service Act to be reasonably supported by the evidence before it.

The Ministry's evidence is that sometime after July 18, 2017, the Ministry provided a cheque in the amount of \$450.00 to the appellant and the cheque was made out to the appellant's landlord. The appellant does not indicate who the cheque was made out to but states in her written submission that "she received damage deposit funds in the amount of \$425.00." The panel did not have the benefit of reviewing a copy of the cancelled cheque.

The appellant's evidence was that she picked up the cheque from the Ministry office and then went to her room at her residence and the cheque was stolen. The appellant does not provide time lines or dates of the time between when she picked up the cheque from the Ministry office and when it was stolen. On July 26, 2017 the appellant advised the Ministry that the cheque was stolen and at that time the Ministry determined that the cheque had been cashed. It wasn't until one week later, August 2, 2017 that the appellant informed the Ministry that she in fact endorsed the cheque and attempted to cash it at the bank but was unable to. The appellant does not give reasons for why she endorsed the cheque in the first place, instead of giving it directly to her landlord to pay for her damage deposit. The appellant does not explain her

reasons for waiting one week after reporting the cheque stolen to inform the Ministry that she endorsed the cheque and attempted to cash it.

The panel accepts that the appellant had a cheque for her damage deposit made payable to her landlord sometime after July 18, 2017. The panel finds that these funds were available to the appellant and could have been provided directly to her landlord when the appellant received them. Instead of using the funds for her damage deposit, the appellant endorsed the back of the cheque, attempted to unsuccessfully cash it, and then claimed that it was stolen and likely cashed by someone else. The appellant does not provide sufficient evidence to convince the panel that the cheque was stolen, thereby placing her in an unexpected situation of not having adequate funds to pay her August rent. The panel finds that the appellant's outstanding \$250 for her August rent was not an unexpected expense, given that the appellant, at one point had those funds in her possession and ready to be paid to her landlord for her damage deposit. The panel finds that the Ministry's determination that this was not an unexpected expense or an item unexpectedly needed pursuant to s.59(1) EAR to be reasonably supported by the evidence and confirms the Ministry's decision.

The panel therefore finds that because the appellant only met one of the three criteria set out in s.59(1) EAR, it was reasonable application of the enactment in the circumstances of the appellant for the Ministry to determine that pursuant to s.59(1) EAR the appellant was not entitled to the crisis supplement for her August rent. The panel confirms the Ministry's decision.