

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated August 18, 2017, which determined that the appellant was not eligible for a crisis supplement for shelter because the appellant's request for a crisis supplement, for shelter costs, did not meet the criteria set out in Section 59 (1) (b) (i) of the Employment and Assistance Regulation. The ministry held that there was insufficient evidence that the appellant's physical health would be in imminent danger if funds for shelter were not provided.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) Section 4

Employment and Assistance Regulation (EAR) Section 59 (1) (b) (i)

PART E – Summary of Facts

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

Evidence Before the Minister at Reconsideration

Ministry records state:

- The appellant is a single person in receipt of Employment and Assistance benefits.
- On July 20, 2017, the ministry received a shelter form, with a new address the appellant moved into earlier in July. The rent was \$850 including utilities.
- On July 21, 2017, the ministry issued a cheque for July shelter funds.
- On July 26, 2017, the appellant's August income assistance was issued by direct deposit. The appellant told the ministry that her bank account was overdrawn due to fraud and therefore she didn't receive the funds.
- On July 27, 2017, the appellant submitted a bank statement showing that her account is overdrawn and that her income assistance was deposited to her account. The appellant called the ministry to inquire about replacement funds. As the ministry had already issued August assistance, funds could not be issued a second time. The ministry advised the appellant to submit an eviction notice, if received, to be assessed for a crisis supplement for shelter.
- On July 28, 2017 the appellant contacted the ministry to advise she had submitted an eviction notice and was now requesting a replacement cheque or a crisis supplement for shelter.
- The ministry did not receive an eviction notice.
- The ministry advised the appellant she was not eligible for a crisis supplement for shelter.

Information provided by the appellant (reason for request for reconsideration)

- A lady has been letting her stay at a hotel without payment but needs payment or she will have to leave.
- The appellant went to the bank and homelessness program and paid \$400 for the first two weeks.
- The appellant has no other options; she tried to find cheaper rent and was using her support for rent also.
- The shelter won't take her and the one she was staying at wrongfully told her she had to leave.
- She has tried everything and was really counting on her assistance until she finds something cheaper which has been hard to do.
- The ministry has been really unfair to her and is not seeing she's actually in need.
- She doesn't want to stay on the street, has no family or friends that can help her and has literally tried everything in her power.

- Shelter Information form (HR3037) dated July 20, 2017.
- Transaction History from the appellant's bank dated July 27, 2017 showing a deposit from the Province of British Columbia, for \$590, on July 26, and a current balance of -\$2,459.39.

Additional Evidence

Appellant

The appellant stated, in her Notice of Appeal, dated August 29, 2017, that she disagreed with the ministry's decision because "...they have not even given me a chance to explain the situation and already had there (sic) decision made. I explained more fully and I've received no benefits technically."

As well, with the Notice of Appeal the appellant included the following information:

- August 29, 2017, Appeal to Reconsideration - "To whom it may concern at the Ministry of social development"
- The appellant states she is appealing the reconsideration decision for last month's benefits and is hoping to get some sort of hardship or crisis supplement or even an appeal supplement.

- She provides an explanation as to the reasons she is having difficulty paying her shelter costs (i.e., her bank card was stolen and her benefits fraudulently taken from the account her benefits were deposited to). Therefore she had no funds to pay her shelter costs.
 - She had to leave the only place that was able to take her without payment. She still owes her money for staying there and feels terrible that she has not received anything since she gave her word she would pay when she got her assistance.
 - When she did not receive her benefits, she begged a relative to take her in on her couch and she has been giving her a place to stay.
 - As well, the appellant states that she was brutally abused and kidnapped and tortured to the point of near death and is trying to have a home where she feels safe.
 - She will attach proving documents and also a letter from the lady who owns the hotel saying how much she owes.
 - She would like to be told how to make a complaint for the judgment and discrimination the ministry has had towards her.
- The appellant's bank Account Statement dated July 12, 2017 showing a closing balance on July 6, 2017 as -3,049.39. (with additional hand-written notes, "Bank card stolen & frauded").
 - Note dated July 7, 2017 "To whom it may concern" (received August 30, 2017)
 - The appellant states she was terribly beaten by four guys and had everything stolen from her.
 - She lived in a hotel for two days and the only other person who let her stay used her to do everything for her and then kicked her out as well with no explanation.
 - The appellant also states that she has not received any assistance for the months of June or July, that she doesn't own any clothing or items as they were stolen and that she would love a safe spot so this doesn't keep repeating itself.
 - Shelter Information form (20 July, 2017).
 - Transaction History from the appellant's bank dated July 27, 2017 showing a deposit from the Province of British Columbia, for \$590, on July 26, and a current balance of -\$2,459.39. (with additional hand-written notes, "Due to this deposit I had no money whatsoever for July. I survived from the food banks and couch surfing due to this.")

Ministry

- The ministry states it will rely on the reconsideration decision as its written submission for appeal. (letter dated September 20, 2017).

Admissibility of Additional Evidence

The panel determined that the following additional evidence, from the appellant, was not admissible under section 22 (4) of the EAA, as it was not before the ministry at time of reconsideration, nor is it in support of the records before the minister at reconsideration.

- Statements from the appellant:
 - She has been brutally abused and kidnapped and tortured to the point of near death. She is trying to have a home where she feels safe.
 - She was terribly beaten by four guys and had everything stolen from her.
 - She doesn't own any clothing or items as they were stolen and would love a safe spot so this doesn't keep repeating itself.

The panel determined that the rest of the additional documentary evidence, from the appellant, was admissible under section 22 (4) of the EAA as it was in support of the records before the ministry at reconsideration.

As well, the panel considered the following information in the ministry's letter, dated September 20, 2017, as their argument.

- The ministry reviewed the appellant's written submission and would like to clarify that although she notes she is "appealing the reconsideration decision for the last month's benefits", the reconsideration decision spoke only to deny the appellant a crisis supplement for shelter. The appellant's request to replace her August income assistance is beyond the scope of the reconsideration decision.

Findings of Fact

The panel finds that an eviction notice, requested by the ministry to assess a crisis supplement, was not received.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry decision, dated August 18, 2017, to deny the appellant a crisis supplement for shelter. The ministry concluded that there was insufficient evidence to support imminent danger to the appellant's physical health if funds were not provided, pursuant to Section 59 (1) (b) (i) of the EAR.

The ministry was satisfied that the appellant's August assistance being deposited in the appellant's overdrawn bank account was unexpected and that the appellant does not have the resources to pay August shelter expenses, pursuant to Section 59 (1) (a) of the EAR. Therefore, these criteria were not part of the issue under appeal.

The legislation provides:

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

...

The ministry argues that the appellant did not provide shelter information regarding where she is living currently and the cost to stay there, nor has she provided an eviction notice for this accommodation or for her previous accommodation. As a result, the minister is not satisfied that failure to provide the appellant with funds would result in imminent danger to her physical health.

As well, the ministry argues that although the appellant notes she is "appealing the reconsideration decision for the last month's benefits", the reconsideration decision spoke only to ministry's decision to deny the appellant a crisis supplement for shelter and the appellant's request to replace her August income assistance is beyond the scope of the reconsideration decision.

The appellant argues she is unable to pay her shelter costs as her benefits were fraudulently taken from the account, her benefits were deposited to. She is appealing the reconsideration decision for last months' benefits and is hoping to receive some sort of hardship or crisis supplement, or an appeal supplement.

Panel Decision

Although the appellant wrote in her Notice of Appeal that she is appealing the reconsideration decision for her income assistance (“benefits”) for August, the panel finds that the ministry reconsideration decision relates only to a denial of the appellant’s request for a crisis supplement and this is the decision over which the panel has jurisdiction on this appeal. Section 59 of the EAR states that the ministry may provide a crisis supplement if the ministry 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. In her Request for Reconsideration, the appellant wrote that a lady has been letting her stay at a hotel without payment but the lady needs payment or the appellant will have to leave. In her Notice of Appeal, the appellant wrote that she had to leave the only place that was able to take her without payment. The appellant wrote that, when she did not receive her benefits, she begged a relative to take her in on her couch and she has been giving her a place to stay. Although the appellant also wrote that she will attach “proving documents” and a letter from the lady who owns the hotel saying how much she owes, the letter was not provided on the appeal. Furthermore, the ministry did not receive an eviction notice from the appellant, nor any other evidence to show that she does not have a place to live or that there was an imminent danger to her physical health. As such, the panel finds that the appellant failed to demonstrate that at the time of her request she was facing an imminent threat to her physical safety. Therefore, the panel finds that the ministry’s decision that the evidence demonstrates that the criteria of section 59 (1) of the EAR has not been met was a reasonable application of the legislation and reasonably supported by the evidence.

Conclusion:

The panel finds that the ministry reasonably concluded that the appellant’s request for a crisis supplement has not met all of the criteria set out in Section 59 (1) of the EAR. The panel therefore finds that the ministry’s decision to deny the appellant’s request for a crisis supplement for shelter was a reasonable application of the legislation and was reasonably supported by the evidence. The panel confirms the ministry’s reconsideration decision. The appellant is not successful with the appeal.