

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “Ministry”) reconsideration decision, dated August 30, 2017 (the “Reconsideration Decision”), in which the Ministry found that the Appellant was not eligible for a crisis supplement for a bed, pursuant to section 57 of *the Employment and Assistance for Persons with Disabilities Regulation* (“EAPWDR”) because the Appellant had not satisfied the Ministry that the Appellant’s need for a bed was unexpected, that there were no other resources available to the Appellant to obtain a bed.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (“EAPWDA”), section 5
EAPWDR, section 57

PART E – Summary of Facts

No representative appeared at the hearing on behalf of the Ministry. The panel confirmed that the Ministry was notified of the hearing so the hearing proceeded pursuant to section 86(b) of the *Employment and Assistance Regulation*.

The evidence before the Ministry at the time of the Reconsideration Decision consisted of the following:

The Appellant's Request for Reconsideration, dated August 24, 2017 ("RFR"), in which the Appellant stated that:

- He was moving into supportive housing on September 1, 2017 in his new city of residence;
- His rent would be \$791.00 per month, which left him \$221 for hydro, personal effects, and breakfast/lunch;
- He did not have access to funds to purchase a bed;
- He could purchase a good used bed for \$300.00;
- If he did not have a bed by September 1, 2017, he would be required to sleep on a concrete floor, which would result in his hospitalization and higher costs to the Ministry than a bed;
- He suffers from severe Chronic Obstructive Pulmonary Disease ("COPD");
- He had been hospitalized in his previous city of residence last March for influenza from which he is still recovering;
- It is disrespectful to ask anyone with the Appellant's medical condition to sleep on a floor.

In his Notice of Appeal, dated September 7, 2017, the Appellant stated that his physical health was in danger due to bruises, lack of sleep and exhaustion. The Appellant stated further that he would need to be hospitalized and was in unbelievable pain from the floor he was sleeping on.

Subsequent to submitting his Notice of Appeal, the Appellant also submitted a medical certificate, dated September 11, 2017 (the "Medical Certificate"), from a doctor who confirmed that the Appellant suffered from severe COPD and that he would benefit from a bed to help him rest and recover from COPD.

The Appellant is a sole recipient of income assistance with Persons with Disabilities designation.

On August 9, 2017, the Appellant advised the Ministry that he had moved from the city in which he had previously been residing back to his home town in the Interior. He requested that the Ministry provide him with a crisis supplement for a bed because, at the time, he had been sleeping on a couch at his brother's residence.

In his oral evidence, the Appellant advised the panel that he had previously asked a representative of the Ministry if he could get a moving supplement to move back to his home town after his eviction but was told that he was not eligible unless he was moving to start work. The Appellant stated in his oral evidence that he nevertheless decided to move back to his home town but, because of the Ministry's advice that he was ineligible for a moving supplement, he left most of his belongings behind, including his bed. The Appellant's evidence was that his decision to return to his home town was motivated by a lack of suitable housing in the city in which he had previously been living. The Appellant states that he was subsequently advised by a Ministry representative that the Ministry could have paid for his move and that, as a result of the erroneous information provided to the Appellant, it should be the responsibility of the Ministry to pay for a replacement bed. The Appellant argues that it is unfair for the Ministry to recognize that sleeping on the floor poses an imminent danger to his physical health but to nevertheless deny him a crisis supplement for a new bed. Finally, the Appellant stated that he had

attempted to access other charitable resources to purchase a bed, without success, and that he did not want to use his brother's bed indefinitely and that his brother had limited funds to assist him.

The panel admits the Appellant's oral evidence as testimony in support of information that was before the Ministry at the time of the Reconsideration Decision. The panel also admits the Medical Certificate submitted by the Appellant, as written testimony in support of information that was before the Ministry at the time of the Reconsideration Decision.

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 a bed because the Ministry was not satisfied that the Appellant's need for a bed was unexpected, that there were no other resources available to the Appellant to obtain a bed, and that failure to obtain a bed would result in imminent danger to the Appellant's physical health, as required by section 57 of the EAPWDR, was a reasonable application of the legislation or reasonably supported by the evidence.

Section 5 of the EAPWDA authorizes the Ministry to provide a supplement to a recipient who is eligible for it:

Disability assistance and supplements

- 5 Subject to the regulations, the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it.

Section 57 of the EAPWDR sets out the criteria for a crisis supplement:

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*.
- (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.

(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 disability 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.

Positions of the Parties

Appellant's Position

The Appellant argues that it is disrespectful to ask anyone to sleep on a floor and that it was only as a result of the erroneous information about whether or not he was eligible for a moving supplement that he left his belongings behind when he moved back to his home town. The Appellant stated that he

had attempted to access multiple charitable organizations following his move but was not able to obtain a new bed. The Appellant argued that it was unfair for the Ministry to acknowledge that sleeping on the floor posed an imminent danger to his physical health but to still not provide him with a bed.

Ministry's Position

As set out in the Reconsideration decision, the Ministry acknowledges that sleeping on a concrete floor would result in imminent danger to the Appellant's physical health. The Ministry was not satisfied, however, that the need for a bed was unexpected and that the Appellant did not have alternative resources available to him to obtain a bed, both of which are criteria that are also required under section 57 of the EAPWDR.

In the Reconsideration Decision, the Ministry notes that the Appellant had provided no information about the reason for his eviction or the reason why he needed to move back to his home town.

Panel's Decision

Section 57(1)(a) of the EAPWD sets out that for a recipient to be eligible for a crisis supplement, he or she must satisfy the Ministry that the supplement is required in order "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."

In the circumstances of the Appellant, while it is unclear whether the Appellant would have been eligible for a moving supplement, as he argues, it is clear from the Appellant's evidence that he decided to move back to his home town after having been advised that he would not be getting help from the Ministry to do so and with the knowledge that he would not have a bed after his move, given his decision to leave his belongings behind. The panel finds that the Ministry's determination that the Appellant's need for a bed after his move was not unexpected was a reasonable application of section 57(1)(a) of the EAPWDR to the Appellant's circumstances.

While the Appellant gave some evidence about resources that he states he attempted to access in order to obtain a bed, the Appellant did state that his brother had told him that he would try to make the Appellant as comfortable as possible following his move. The Appellant's evidence is that his brother offered him both his bed and his couch to sleep on following the Appellant's move. The panel finds that the Ministry's determination that the Appellant had not established that there were no resources available to him was also a reasonable application of section 57(1)(a) of the EAPWDR to the Appellant's circumstances.

In view of the evidence and the relevant legislation, the panel finds that the Reconsideration Decision, which determined that the Appellant was not eligible for a crisis supplement for a bed because the need for the bed was not unexpected and the Appellant had not satisfied the Ministry that no other resources were available to obtain a bed, as required by section 57(1)(a) of the EAPWDR, was a reasonable interpretation of the applicable legislation, and the panel confirms the Reconsideration Decision. The Appellant is not successful in the Appeal