

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction's (the "ministry") reconsideration decision of October 12, 2017 made pursuant to section 58 of the *Employment and Assistance Regulation*, which denied the appellant's request for reimbursement of a \$500 security deposit for rent, on the grounds that the appellant had already paid it and it was therefore not required to enable him to rent his new residential accommodations.

PART D – Relevant Legislation

Employment and Assistance Regulation, section 58

PART E – Summary of Facts

The ministry trainee observed with the permission of the appellant, but did not participate in the appeal.

Documents and Information Before the Minister at Reconsideration

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

A. The appellant's Residential Tenancy Agreement dated May 31, 2017, for a tenancy commencing June 1, 2017 for one year the terms of which require a security deposit of \$500 to be paid May 31, 2017

B. A receipt dated May 31, 2017 or the security deposit in the amount of \$500

C. A Request for Reconsideration dated September 29, 2017, which sets out the Decision to be Reconsidered, and in which

- The appellant states that he applied for the security deposit on June 5 and submitted the Tenancy Agreement and Receipt,
- The appellant states that while awaiting an answer from the ministry he suddenly became ill and did not have a chance to contact the ministry, and that,
- The appellant says when he realized that he had not received the money he again applied
- The appellant says that when no one from the ministry contacted him, he made inquiries and was told his request was denied, and that
- After speaking to a supervisor, he was told to apply for reconsideration

PART F – Reasons for Panel Decision

Issue Under Appeal

The issue under appeal is whether or not the Ministry of Social Development and Poverty Reduction's (the "ministry") reconsideration decision of October 12, 2017, which denied the appellant's request for reimbursement of a \$500 security deposit for rent on the grounds that the deposit was already paid and was therefore not required to enable the appellant to rent his new accommodations, was reasonably supported by the evidence or was a reasonable application of section 58 of the *Employment and Assistance Regulation*, in the circumstances of the appellant.

Relevant Legislation

Supplement to pay a security deposit

58(1) In this section:

"**security deposit**" means a security deposit as defined in the *Residential Tenancy Act*, or an amount required by a cooperative association to be paid by a recipient to the cooperative association for the same or a similar purpose as a security deposit under the *Residential Tenancy Act*.

(2) The minister may provide a security deposit to or for a family unit that is eligible for income assistance or hardship assistance if

- (a) the security deposit is necessary to enable the family unit to rent residential accommodation,
- (b)
- (c)

(3)

(4)

(5) For the purposes of subsection (3), "**security deposit**" includes a security deposit provided on or after April 1, 2002 under the

- (a) Income Assistance Regulation, B.C. Reg. 75/97,
- (b)
- (c)
- (d)

General Scheme of the Legislation

The general scheme of the legislation is the minister may provide a security deposit for rent to a family unit eligible for income assistance under a number of conditions; the relevant condition in this appeal is that the minister may provide the deposit if it is necessary to enable the appellant to rent residential accommodation.

Parties' Positions at Appeal

Appellant's Position

The appellant repeated on several occasions that there was a communication difficulty do to his lack of English and the personnel at the ministry office not being conversant with the appellant's language.

The appellant said that he was upset that he never received responses either telephonically or in writing to two different requests, and said that he should have been given the courtesy of a reply when he had made inquiries; he said that the ministry employee who had his file should have at least telephoned if he or she did not write.

Appellant's Additional Evidence

The appellant said that he went into his local ministry office at the end of May to ask for the security deposit supplement. The appellant said that he did not request the security deposit in writing, just verbally, and was told that in order to have the ministry provide a security deposit he would need a receipt, so he went to the landlord to whom he had not yet paid the security deposit and asked for a receipt. The appellant said the landlord would not give him a receipt until the money had been paid so having to spend what money he had saved from their food money on moving expenses he borrowed the \$500 security deposit from a friend, gave it to the landlord, obtained a receipt and then returned to the ministry office with the receipt on June 5th, 2017. The appellant says that he was then told that as he had paid to the security deposit, it was not necessary to enable him to rent the new accommodation and so he was not eligible for the supplement to pay the security deposit.

In the reconsideration decision it is reported, as it was in the Decision to be Reconsidered, that a worker asked the appellant if he needed assistance with paying the security deposit and the appellant said he did not need assistance.

The appellant denied saying that he had declined a security deposit supplement because he did not need it. During the hearing, the ministry representative had access to the appellant's digital file and could find no record of the appellant being asked if he needed a security deposit and declining it.

The appellant said that because someone at the ministry office told him he had to have a receipt in order to apply for and receive the supplement, he borrowed the money from a friend, paid the landlord, and then obtained the receipt as he thought he was required to do.

The appellant also said that he had made inquiries of the ministry office twice, but received no return phone call or anything in writing and says that he should have had a reply to his inquiries. The appellant said that when he went to the ministry office to provide his new address and ask for the security deposit supplement, the ministry personnel did not give him any documentation to show that he had visited and provided his new address and requested the security deposit. He said that he had only requested the security deposit verbally, not in writing. He said that he has to pay his friend back and to date has managed to pay \$100.

Ministry Position on Appellant's Additional Evidence

The ministry did not object to the additional evidence given by the appellant.

Panel Decision on Appellant's Additional Evidence

In the Reconsideration Decision, the Reconsideration Officer refers to there being no record of a request for a security deposit supplement being made. The ministry records at reconsideration indicated that the appellant was asked if he required a security deposit and declined it, but it is unclear when the appellant was asked about the security deposit and was unclear when or if the appellant declined it. The appellant's evidence was that he had gone in at the end of May, and it was then that he had been told he needed a receipt in order to be granted a security deposit. On questioning the ministry agreed that the appellant had gone into his local office on May 29, but had no record of the appellant discussing a security deposit.

The panel considers the appellant's additional evidence to be in support of a security deposit being requested and clarifies the date on which the request occurred. The panel admits the additional evidence pursuant to section 22 (4) of the *Employment and Assistance Act*, as being oral testimony in support of the information and records that were before the Minister at reconsideration.

Ministry's Position

There was no issue as to whether or not the appellant was eligible for income assistance, and therefore eligible to receive a security deposit supplement if he qualifies under section 58 EAR, as he is designated as a Person with Persistent Multiple Barriers to Employment.

The ministry argued that it is the supplier of last resort when it comes to providing monetary supplements, and that it is immaterial whether or not the appellant borrowed the money for the security deposit or provided it out of his own funds.

The ministry submitted that the issue in this appeal is whether or not the appellant required a security deposit supplement in order to rent his new premises and that as the appellant found the money for the security deposit, paid it, and secured his new rented premises, the provisions of section 58 (2)(a) EAR were not engaged.

Ministry's Additional Evidence

The ministry's representative said that there was nothing in the ministry file, to which he had access at the time of this appeal, confirming the statement in the reconsideration decision that "*you indicate you had requested a supplement to pay the security deposit on June 5th. There is no record of this request. In fact, ministry records indicate that when you asked if you require to security deposit you declined stating you had already paid the security deposit.*"

The ministry representative said from reading the ministry records, the appellant came into the local office on May 29 and was given an Intent to Rent form and said that the appellant next went into the local office on June 5 and said that his security deposit had been paid on May 31.

The ministry representative also said that in the files there was no record of the appellant requesting reimbursement for the security deposit before August, but they did have a record of the appellant coming into the local office on both May 29 when he was given the Intent to Rent form, and on June 5 to update his address, but apparently had no record of the appellant going into the his local office on May 31.

Appellant's Position on Ministry's Additional Evidence

The appellant did not object to the ministry's additional evidence.

Panel Finding on Ministry's Additional Evidence

The panel finds that the ministry's additional evidence is in support of the information and records that were before the minister at the time of reconsideration in that they clarify the dates and what occurred on those dates when there was contact between the appellant and the ministry. The panel admits the additional evidence pursuant to section 22 (4) of the *Employment and Assistance Act*, as being oral testimony in support of the information and records that were before the Minister at reconsideration.

Conclusion

The panel finds that the appellant was able to pay the security deposit, and did so, enabling him to rent his new residential accommodation, without having to turn to the ministry. As such, the security deposit supplement was not necessary to enable the appellant's family unit to rent the residential accommodation.

The panel finds that the ministry's reconsideration decision, which denied the appellant reimbursement for the security deposit already paid, was reasonably supported by the evidence and was a reasonable application of the applicable enactment in the appellant's circumstances.

The appellant is not successful in his appeal.