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PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the "Ministry") reconsideration decision dated July 5, 2018 in which the Ministry denied the appellant a crisis supplement to repair her trailer. Specifically, the Ministry determined that pursuant to s.57 of the Employment and Assistance for Persons with Disabilities Regulation ("EAPDWR") the appellant did not demonstrate that she had no resources available to her to repair the trailer, or that the failure to repair the trailer would result in imminent danger to her physical health.

PART D – RELEVANT LEGISLATION

Section 22(4), Employment and Assistance Act ("EAA")
Section 5, Employment and Assistance for Persons with Disabilities Act ("EAPWDA")
Section 57, Employment and Assistance for Persons with Disabilities Regulation ("EAPWDR")

PART E – SUMMARY OF FACTS

The information before the Ministry at reconsideration included the following:

- The appellant is designated a Person with Disabilities ("PWD") since March 22, 2011.
- She is in receipt of \$1185.42 per month for disability assistance (\$758.42 for support, \$375 for shelter, \$52 for transportation).
- On July 29, 2017, the appellant advised the Ministry that her roof was broken. She requested assistance to repair it.
- The Ministry requested a letter specifying the repairs that were required and quotes for the cost of repair; and created a service request (the "Service Request").
- The Service Request was closed October 6, 2017 as no additional information was provided by the appellant.
- On May 25, 2018, the appellant requested a crisis supplement for trailer repairs and indicated that she thought the trailer just needed to be levelled but later found out that her roof needs to be re-built. The appellant provided photos of the trailer and three separate quotes from contractors (\$7,324.64, \$11,029.64, \$10,644.18).
- The appellant also provided a letter from a contractor indicating that the trailer needed to be leveled, the roof repair was extensive, and repair to exterior walls was required. A new roof would need to be framed over the old one.
- On June 4, 2018, the Ministry denied the appellant's request because the need was not unexpected as the appellant had been aware of the repair since August 2017. Further, the Ministry found that imminent danger to the appellant's physical health had not been established.
- On June 22, 2018, the appellant submitted a request for reconsideration ("RFR"). The appellant states in her RFR that if the work does not get completed her trailer will get worse. She states that the floors of the trailer are bowing and the walls have water damage due to the roof leaking.
- Other documents that were included at reconsideration were two photos of the trailer (difficult to see), a materials list prepared by the contractors, a schematic drawing of the trailer, and a BC assessment print out showing that the trailer is owned jointly by the appellant and her father.

The appellant's notice of appeal was argument in support of the information at reconsideration and states: "I feel that if no action is taken(sic) now the trailer is going to be unfixable/unlivable due to the roof and blocking and the trailer sinking into the ground as it is just a matter of time for this/ this is cause damage as is."

The appellant provided the following additional information after reconsideration through documentary evidence and oral evidence:

- Six videos: the first and second videos are identical they are 2 minutes and 54 seconds in length. They show the casing around the bottom of the trailer. They show that portions of the trailer are not properly in the ground. The siding is buckling.
 - o The third video (32 seconds in length) shows the corner of the trailer "dropped and pushing the gas metre over which is very dangerous."
 - o The fourth video (25 seconds in length) shows black mould in her son's room.
 - o The fifth video (1 minute and 43 seconds in length) shows all the wood removed from her trailer because of the mould.
 - o The sixth video (7 minutes and 37 seconds in length) shows the extent to which the trailer is not level, and that the windows are cracking. The appellant states that the last wind storm caused the trailer to shake.
- An email from the appellant describing the videos. The email states that the trailer is unbalanced, sinking, and falling off the support it has under it. It is twisting and has cracks in the walls and the roof is splitting from the addition on the trailer and the cracks in the roof have caused some major damage to the interior of the trailer. The appellant states that she cannot fix the inside until she gets the roof fixed and the trailer leveled. She states that it will not last another winter and will be unfixable.
- The email also states that there are no loans or grants to assist the appellant and that she has also spoken with the MLA about assisting her.
- 2 Photographs of the Appellant's trailer, one showing the left and front of the trailer and one showing the

right and front of the trailer

- At the hearing the appellant re-iterated that the trailer is going to sink, that the sinking is causing damage, and the trailer is going to become unrepairable based on what the contractor said. The appellant stated that her trailer will be beyond repair and if she doesn't fix it now it won't last another season without causing major damage or falling on the ground. The appellant stated that right now the contractor can fix the damage, and there is no other help for her.
- At the hearing, the appellant provided oral evidence that she has no opportunity to live on a reserve and that she also obtains materials to fix her home from friends and neighbors.
- At the hearing, the appellant provided oral evidence about other resources available to her. She states that even though her father appears on the BC assessment report he is not available to assist with the cost of the repairs because he is on a disability pension.
- At the hearing, the appellant provided oral evidence indicating that she has been trying to repair the trailer by putting about \$20 or \$30 away each month and obtaining building supplies from her family. Now that her gas and hydro costs have increased, she can no longer afford to repair the trailer.
- At the hearing, the appellant stated that her pad rent is \$249/month. She has looked into some rental properties but these would cost her between \$800 - \$1000 per month.

The Ministry did not object to new evidence being entered.

The panel finds that the photographs of the trailer, the videos of the trailer, the oral evidence regarding the state of the trailer, and the written email evidence about the state of the trailer are in support of the information before the ministry at reconsideration. The Ministry was provided with photographs of the trailer at reconsideration as well as descriptions of the damage to the trailer. The additional photographs and videos support the written description of the damage that was before the Ministry at reconsideration. The panel finds that the photographs and videos should be admitted pursuant to s.22(4) EAA

The panel finds that the portion of the email from the appellant which refers to loans or grants she sought and her dealings with her MLA are not admissible evidence. There was no information before the Ministry at reconsideration about the other resources the appellant sought to assist her in fixing her trailer and the email evidence is therefore not in support of the information before the Ministry at reconsideration. Further, the appellant's oral evidence about her father not being able to assist with the repairs, obtaining materials from friends and neighbors, not being able to live on a reserve, and her rental costs/efforts to seek other rentals, is also not admissible. The appellant did not provide any information about her father's ability to assist with the repairs at the time of reconsideration even though both the appellant and the Ministry were aware that her father was named as joint owner of the trailer on the BC assessment print out. The documentary and oral evidence surrounding the appellant's ability to seek other resources cannot be admitted pursuant to s.22(4) EAA because there was no evidence about the appellant's attempts at seeking other resources or about what resources were available to the appellant before the Ministry at the time of reconsideration.

PART F – REASONS FOR PANEL DECISION

The issue on appeal is whether it was reasonable for the Ministry to deny the appellant a crisis supplement to repair her trailer. Specifically, was it reasonable for the Ministry to determine that, pursuant to s.57 EAPDWR, the appellant did not demonstrate that she did not have other resources available to repair the trailer, or that the failure to repair the trailer would result in imminent danger to her physical health.

The legislation provides:

s. 22 EAA Panels of the tribunal to conduct appeals

22 (4) In a hearing referred to in subsection (3), a panel may admit as evidence only

- (a) the information and records that were before the minister when the decision being appealed was made, and
- (b) oral or written testimony in support of the information and records referred to in paragraph (a).

Section 5, EAPWDA 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, EAPWDR 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.

The panel finds:

At reconsideration, the Ministry determined that the expense to fix the trailer was an unexpected expense and that the appellant therefore met the first criteria.

The Ministry argued that with respect to the second criteria, the appellant did not provide information that no other resources were available to her to fix her trailer. As noted above, the panel did not accept the additional evidence that the appellant provided at the hearing regarding the efforts she made to seek other resources. At the time of reconsideration, the Ministry was not provided with information about what other resources the appellant was attempting to access. The Ministry was also aware at the time of reconsideration that the appellant's father was a co-owner of the trailer and the panel finds that it was reasonable for the Ministry to have some expectation that the appellant's father would assist with the repairs without information to the contrary. Based on the information before the Ministry at reconsideration, the panel finds that it was reasonable for the Ministry to determine that the appellant did not meet the second s.57 EAPWDR criteria which requires that no other resources were available to her to meet the expense of making repairs to her trailer.

The Ministry argued that the appellant has not demonstrated that a failure to obtain a crisis supplement to repair the trailer would result in imminent danger to her physical health. The Ministry states that she has been living in her trailer since 2017 and argues there is no immediate danger. The letter from the appellant's contractor states that if

the appellant's trailer is left as is then "in short time" it will start affecting the structure of the walls. Video 6 shows cracking windows. Video 1 shows buckling of the walls. Video 5 shows mould and water leaking. At the hearing, when the Ministry was asked about the words "in short time", the Ministry stated that that would not qualify as imminent. The panel finds that the video evidence that was admitted shows the extent of the damage to the trailer and also confirms that the damage is getting worse and the cracked windows are an additional problem that was not mentioned in the letter from the contractor. It is clear that there are immediate issues arising from the trailer not being repaired which include broken windows (possible broken glass), serious structural issues (possible collapsing) and water leaking with mould (possible health issues). As stated by the contractor, in "short time" the structure of the walls will be affected and as is apparent in the videos, the structure of the walls is already affected through water damage, buckling, and windows breaking. These issues pose an imminent health risk and the appellant's evidence indicates the problems are getting worse, even between the time of the appellant's initial request for a crisis supplement and the time of this hearing. There is danger to the physical health of the appellant as broken glass, mould, or collapsing structures are potential outcomes of leaving her trailer unrepaired. These outcomes are a result of the damage to the trailer which the appellant has provided significant evidence of. The panel finds that it was not reasonable for the Ministry to determine that a failure to repair the appellant's trailer would not cause imminent danger to her physical health.

The legislation requires all of the requirements in section 57(1) EAPWDR to be met. Given that the Ministry was reasonable on their determination that the appellant did not show that she had no resources available to her to repair her trailer, the panel finds that the ministry's reconsideration decision was reasonably supported by the evidence and confirms the decision.

PART G – ORDER	
THE PANEL DECISION IS: (Check one) <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> BY MAJORITY	
THE PANEL <input checked="" type="checkbox"/> CONFIRMS THE MINISTRY DECISION <input type="checkbox"/> RESCINDS THE MINISTRY DECISION	
If the ministry decision is rescinded, is the panel decision referred back to the Minister for a decision as to amount? <input type="checkbox"/> Yes <input type="checkbox"/> No	
LEGISLATIVE AUTHORITY FOR THE DECISION:	
<i>Employment and Assistance Act</i>	
Section 24(1)(a) <input checked="" type="checkbox"/> or Section 24(1)(b) <input type="checkbox"/>	
and	
Section 24(2)(a) <input checked="" type="checkbox"/> or Section 24(2)(b) <input type="checkbox"/>	

PART H – SIGNATURES	
PRINT NAME MEGHAN WALLACE (by telephone)	
SIGNATURE OF CHAIR	DATE (YEAR/MONTH/DAY) 2018/Aug/08

PRINT NAME ZELDA CRAIG	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2018/Aug/08
PRINT NAME MARGARET KOREN	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2018/Aug/08