

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction's (the ministry) reconsideration decision dated August 13, 2018, which denied the appellant's request for a crisis supplement for his August 2018 rent. The ministry was satisfied that the appellant required the supplement to meet the expense and that he was unable to meet the expense because there were no resources available to him as required by section 59(1)(a) of the *Employment and Assistance Regulation* (EAR). However, the ministry was not satisfied that the appellant was eligible for income assistance or hardship assistance as required by section 59(1) of the EAR.

The ministry was also not satisfied that failure to obtain the crisis supplement would result in imminent danger to the appellant's physical health or the removal of a child under the Child, Family and Community Service Act (CFCSA) as required by section 59(1)(b) of the EAR.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) section 4

EAR section 59

PART E – Summary of Facts

The information before the ministry at the time of reconsideration was the following:

- Text messages between May and July 8, 2018 between the appellant and his former employer
- Emails June 4, 2018 to July 5, 2018 between the appellant and his employer
- Printout of appellant's bank information May 30, 31 and June 11-14, 2018
- Appellant's work schedule June 9 to 22, 2018
- Email notification of the employer's direct deposit to the appellant's bank account June 12, 2018 of \$200
- Email notification of the employer's direct deposit to the appellant's bank account June 19, 2018 of \$102
- Paystub, undated showing current net pay of \$1,070
- Employment Standards Branch (ESB) complaint submission July 5, 2018
- Appellant's Request for Crisis Supplement – Shelter dated July 25, 2018
- Request for Reconsideration form dated July 30, 2018 (RFR) in which the appellant states that he has a legitimate hardship as the company he had been working for was illegally withholding wages of \$2,500. The appellant states that he is worried that if he does not pay his rent on August 1, 2018 he will be evicted
- Email of job interview confirmation August 3, 2018
- Email notification of the employer's direct deposit to the appellant's bank account, undated of \$400

Additional Information

In his Notice of Appeal dated August 15, 2018 (NOA) the appellant states that he spoke to a ministry worker the week prior and advised that he would be submitting additional documentation. The appellant states that the worker did not do her job and should have requested an extension of time on his behalf so that he could submit further documentation.

With his NOA, the appellant submitted the following documentation, stating that his file is properly updated:

- Bank statements for May and June 2018
- Duplicate copies of the email notifications and the appellant's June 9 to 22, 2018 work schedule
- Letter from the ministry to the appellant dated July 17, 2018 indicating that the appellant's income assistance cheque will be held until further information is provided for income verification
- Employee Paystub for pay period May 12, 2018 to May 25, 2018 in the amount of \$1,070
- Bank transactions from August 1 to 8, 2018
- ESB Factsheet and Self-Help Kit
- Appellant's submission to the ESB requesting payment of \$2,273.50 from his former employer

Prior to the hearing the appellant provided five submissions (together, the "Submissions") as follows:

1. Email dated August 19, 2018, 5 pages, regarding the appellant's employment and financial circumstances with copy of his new employment position and request for rent payment dated August 16, 2018 (S1)
2. Email dated August 19, 2018, 18 pages, regarding the appellant's employment and financial circumstances with a copy of his rental agreement and duplicates of other documents (S2)
3. Email dated August 19, 2018, 47 pages, regarding the appellant's employment and financial circumstances with further duplicate of the NOA, tenancy agreement, employment position,

landlord's payment request, emails regarding job positions, banking information, and ESB information (S3)

4. Email dated August 20, 2018, 1 page, indicating that the appellant was hired on May 1, 2018 (S4)
5. Email dated August 20, 2018, 1 page, providing further information regarding the money received from his employer for employment related expenses (S5)

The appellant did not attend the hearing. Having confirmed that the appellant was notified of the hearing, the panel proceeded with the hearing pursuant to EAR section 86(b).

At the hearing, the ministry relied on the reconsideration decision.

Admissibility of New Information

The ministry did not object to the admissibility of the NOA or documents provided with the NOA or the appellant's Submissions.

The panel has admitted the documents and the Submissions as they are information in support of information and records that were before the ministry at the time of reconsideration, in accordance with section 22(4) of the *Employment and Assistance Act*. In particular, the information in the documents provided with the NOA and the Submissions provides further information and explanation about the appellant's income, efforts to obtain his wages from his employer, and banking information.

The panel accepts the information in the NOA as argument.

PART F – Reasons for Panel Decision

The issue on this appeal is whether the ministry's decision to deny the appellant a crisis supplement for August 2018 rent was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

In particular, was the ministry reasonable in determining that the appellant was not eligible for income assistance or hardship assistance as required by section 59(1) of the EAR or that failure to obtain the crisis supplement would result in imminent danger to the appellant's physical health or the removal of a child under the Child, Family and Community Service Act (CFCSA) as required by section 59(1)(b) of the EAR.

EAA

Income assistance and supplements

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

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*.
- (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, and

(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 income 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.

[am. B.C. Reg. 12/2003.]

Panel Decision

The EAR requires a family unit to provide certain personal, income and employment information to determine whether the family unit is eligible for income assistance or hardship assistance. Section 59(1) of the EAR makes eligibility for income assistance or hardship assistance a pre-condition for a crisis supplement.

The appellant's position is that the ministry ought to have found him eligible for income assistance as his bank statements clearly specify what he was paid for income as compared to other monies he received from his former employer for employment related or 'float' expenses required for miscellaneous items such as dump fees and office expenses. The appellant states that as shown on his bank statement, his payroll was direct deposited with the notation 'payroll direct deposit' whereas other float deposits were not coded as payroll.

The appellant states that in the three months he was working for his employer he was not paid properly for documented hours and that his employer owes him over \$2000 which he is pursuing through the ESB. The appellant states that he has been unemployed since June 2018, that he has not been able to obtain the money owed to him from his former employer of \$2,273.50, and has no other means to pay his August 2018 rent. The appellant states that if he is evicted he will be homeless and in a vulnerable position as he may be subjected to violence on the street.

The ministry's position, as set out in the reconsideration decision, is that the ministry previously determined that the appellant is not eligible for August assistance because his income is in excess of the rate of assistance. The ministry states that while the appellant had requested reconsideration of this decision, he had not followed through with his request so the minister was not satisfied that he was eligible for income assistance or hardship assistance as required by section 59(1) of the EAR.

The reconsideration decision also states that the appellant has not provided any evidence, such as an eviction notice, to confirm how much money the appellant owes or that he would be required to leave if he did not pay his August rent. In addition, the ministry states that the appellant has not provided any evidence to suggest that he has a medical condition that would be worsened if he was required to stay temporarily at a shelter or with family and friends while he secured alternate accommodation. The ministry's position is that the appellant has not met the criteria of EAR section 59(1)(b).

The panel finds that the ministry was reasonable in determining that the appellant did not meet the criteria of section 59(1) of the EAR as the information provided did not establish that the appellant was eligible for income assistance or hardship assistance. In particular the ministry had provided a letter to the appellant dated July 17, 2018 indicating that income verification was requested but the appellant had not responded to that request and a determination regarding the appellant's income assistance application was not made prior to the reconsideration decision regarding the crisis supplement request. While the appellant may have provided further information and documentation to the ministry regarding his income with the NOA, the panel finds that at the time of reconsideration, the ministry was reasonable in determining that the appellant did not satisfy the criteria of EAR section 59(1) as the ministry had not yet determined his eligibility.

Although the ministry states that the appellant had not provided any evidence indicating how much money he owed his landlord for his August 2018 rent, the panel finds that the residential tenancy agreement provided with S2 confirms that the appellant's monthly rent was \$1,075 and that it was due on the first day of each month. The panel also notes that with S2 the appellant also provided an

email from his landlord dated August 16, 2018 requesting that the appellant make payment as soon as possible for August rent. However, the appellant did not provide any evidence indicating that he would be facing eviction if his August rent was not paid.

While the panel acknowledges that the possibility of facing eviction and becoming homeless is a situation the appellant would prefer to avoid, becoming homeless is not, on its own, sufficient to meet the criteria of "imminent danger to physical health". The appellant did not provide any evidence to suggest that he has a medical condition that would be worsened and that would present imminent danger to his physical health if he was required to stay temporarily at a shelter or with family and friends while he secured alternate accommodations. Accordingly, the panel finds that the ministry was reasonable in determining that the appellant did not meet the criteria required in EAR section 59(1)(b)(i).

Conclusion

Having reviewed and considered all of the evidence and the relevant legislation, the panel finds that the ministry's reconsideration decision, which found that the appellant is not eligible for a crisis supplement for August 2018 rent was reasonably supported by the evidence and a reasonable application of the legislation in the circumstances of the appellant. The panel therefore confirms the ministry's decision.

PART G – ORDER

THE PANEL DECISION IS: (Check one)

 UNANIMOUS BY MAJORITY

THE PANEL

 CONFIRMS THE MINISTRY DECISION 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? Yes No

LEGISLATIVE AUTHORITY FOR THE DECISION:*Employment and Assistance Act*Section 24(1)(a) or Section 24(1)(b)

and

Section 24(2)(a) or Section 24(2)(b) **PART H – SIGNATURES**

PRINT NAME

Helene Walford

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2018/09/30

PRINT NAME

Chris McEwan

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/09/30

PRINT NAME

David Handelman

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/09/30