

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction's (the Ministry) reconsideration decision made under section 57(1) of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR) and dated September 24, 2018, that denied the appellant's request for a crisis supplement for shelter for a month which is not stated.

While the Appellant satisfied the minister that the Appellant had no resources available with which to pay the outstanding rent, and further satisfied the minister that failure to receive the crisis supplement for shelter may present imminent danger to the Appellant's physical health as the appellant will be at risk of homelessness, the Appellant failed to satisfy the minister that the need for the crisis supplement was for an unexpected expense, specifically monthly rental costs, and was therefore not an unexpected expense.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Act, section 5
Employment and Assistance for Persons with Disabilities Regulation, section 57

PART E -- SUMMARY OF FACTS

Nature of the Appellant's Application

The appellant applied for a crisis supplement for shelter, which was denied. The appellant requested reconsideration of the denial.

Evidence at the Time of Reconsideration

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

A. The Request for Reconsideration, which consisted of :

1. The Original Decision in respect of which the Appellant requested Reconsideration
2. The Appellant's reasons for requesting Reconsideration, in which the Appellant states
 - That he got his Persons with Disabilities check and the subsidy check from an agency and gave \$800 of it to his sister who was visiting from their home country
 - That the sister ran into financial problems while in Canada and had to return as soon as possible to the home country
 - That the sister was short of funds to pay for the ticket and airport fees and that was the reason why the Appellant gave \$800 to her
 - That the sister promised to return the money as soon as possible after returning to her home country
 - The Appellant found that the sister would not be able to repay the money until her husband received his pay for the first week of October and then it would take another week to send the money [to the Appellant]
 - The Appellant's monthly rent is \$1200. \$400 was paid to the landlord, who was demanding the balance of \$800 "asap" and otherwise the landlord was going to serve an eviction notice on the Appellant which would put the appellant in immediate danger of becoming homeless
 - That the Appellant hopes the ministry understands the Appellant's precarious situation which the appellant says "*was totally unexpected, as a family comes first*"

Evidence Provided on Appeal

Appellant

In the Notice of Appeal, the Appellant submitted that he disagreed with the ministry's reconsideration decision because the ministry conducted an audit in 2017 and "*The reason of appeal are logical*".

PART F – REASONS FOR PANEL DECISION

Issue

The decision under appeal is the Ministry reconsideration decision made under section 57(1) EAPWDR dated September 24, 2018, that denied the appellant's request for a crisis supplement for shelter a month which is not stated.

The issue is whether or not the reconsideration decision was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the Appellant, because while the Appellant satisfied the minister that he had no resources available with which to pay the outstanding rent, and further satisfied the minister that failure to receive the crisis supplement for shelter may present imminent danger to his physical health as the appellant will be at risk of homelessness, he failed to satisfy the minister that the need for the crisis supplement was for an unexpected expense, specifically monthly rental costs, and was therefore not an unexpected expense.

Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA), section 5 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.

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 57 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*.

General Scheme of the Legislation

The general scheme of the EAPWDA section 5, the minister may provide a supplement to a person if that person has been designated as a Person with Disabilities and meets the requirements of the EAPWDR section 57. That section provides that an individual designated as a Person with Disabilities may receive a crisis supplement if three criteria are met.

- The first is that the Minister may provide a supplement if it is required to meet an unexpected expense or to obtain an item unexpectedly needed (section 57(1)(a) EAPWDR).
- The second is that the person is unable to meet the expense or obtain the item because there are no resources available to the family (section 57(1)(a) EAPWDR).
- The third is that the Minister must consider that failure to meet the expense or obtain the item will result in either imminent danger to the person's physical health or removal of a child under the *Child, Family and Community Service Act* (section 57(1)(b) EAPWDR). The child removal provision is not an issue as the Appellant lives alone.

Analysis

There was no issue that the Appellant was designated as a Person with Disabilities. The ministry was satisfied that the second and third criteria were met; specifically that the Appellant was unable to meet the expense and that failure to meet the expense may present imminent danger to the Appellant's physical health.

The analysis will therefore focus on only 1 of the 3 criteria; whether or not the Appellant was faced with an unexpected expense, as it was only that criterion that the ministry at Reconsideration and determined that the Appellant had failed to meet. That criterion is set out as the first half of section 57(1)(a) *EAPWDR*.

Section 57(1)(a) *EAPWDR* – Unexpected Expense

The first half of the subsection reads "*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 a supplement to meet an unexpected expense...*"

The question here is whether or not the Balance need for the \$500 he sought from the ministry was for "*an unexpected expense*".

Appellant's Position

The Appellant submitted that prior to the issues that are the subject of this appeal arising, he had been audited by the ministry which had learned that his sister had loaned him small amounts of money from time to time; he said that the ministry had asked him if his sister had assisted him with funds and that is when he told the ministry of the small loans. He submitted that when his sister came to visit from her home country, and had to return on an emergency basis, he provided her the funds, but they were in repayment of the money she had loaned him. He said that she had loaned him the money when he was unemployed for a period of time and had insufficient funds with which to support himself. He submitted that after repaying his sister, he applied for a crisis grant on compassionate grounds because he was behind on his rent and his sister is not able to provide more money to him. He argued that it is the job of the government to provide sufficient money to him for his housing and living expenses, and it is up to him to decide how he allocates the money that he has. He further submitted that provincial legislation gives a right to him to have emergency assistance and not providing that emergency assistance evidences a bias against immigrants such as him.

He also said that because the ministry knew that he had to repay his sister, and then denied him a crisis supplement, the ministry was biased against him.

He further argued that the loans from his sister had occurred over the last three years, and submitted that if the government looked after people he would not have needed to borrow money from his sister. He also submitted that if the ministry knows he is in imminent danger, and that he cannot keep asking for assistance from relatives, and that he cannot always look to his sister in particular, then it is the responsibility of the government to help him.

He also questioned why, when the ministry knew his employment situation and about the loans from his sister, it would then still decide against him. He further questioned that when the

ministry knew that family comes first, and that he had to pay his sister back, why would it deny him the grant he had requested.

Further, he argued that family comes first, implying that the need to provide money to his sister to travel back to her home country took precedence over his other expenses. He said that he had given his sister \$800 in order to fly home, but he owed her more than that.

He argued that he met all three criteria of section 57(1), and therefore was entitled to the crisis grant. He did not however explain how he met all three criteria.

Ministry Position

The ministry relied upon the Reconsideration Decision, but in addition clarified that the loans from the Appellant's sister were not counted as income, and did not enter into the Reconsideration Decision.

The ministry further said that the ministry is not responsible for how people allocate their resources although the Reconsideration Decision may have been unclear on that point and could have left the impression that the ministry does tell people how they should allocate their money.

Panel Finding

As noted earlier, there was no issue that the Appellant, as a Person with Disabilities, had satisfied the minister that he was unable to meet the expense (rent) and that his failure to meet that expense may present imminent danger to his physical health because, if evicted, he may be homeless.

The issue is whether or not the Appellant "*requires a supplement to meet an unexpected expense*", which is the criterion upon which the Reconsideration Decision denied the Appellant's claim.

The panel finds that on the evidence the Appellant had the funds with which to pay his rent but chose instead to spend them on his sister's return to her home country. The panel further finds that it is the Appellant's choice as to how he should allocate his limited funds, and it is not the ministry's responsibility to tell the Appellant how his funds should be spent.

The panel finds that the Appellant, because he knew that he had to pay rent, but chose, instead of paying rent, to provide his sister with money, was not met with an "*unexpected expense*" for rent.

The panel finds that the ministry, in determining that the Appellant had failed to meet the criterion of being faced with an "*unexpected expense*", reasonably applied the legislation, specifically section 57(1) of the *Employment and Assistance for Persons with Disabilities Regulations*, in the circumstances of the Appellant.

The panel confirms the ministry decision and the Appellant is not successful in his appeal.

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

Donald R. McLeod

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2018/November/20

PRINT NAME

Robert Fenske

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/November/20

PRINT NAME

Pat Munroe

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/November/20