

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction’s (“ministry”) reconsideration decision dated April 18, 2019 in which the ministry found that the appellant was not eligible for a crisis supplement under section 57 of the Employment and Assistance for Persons with Disabilities Regulation (“EAPWDR”) for shelter costs, specifically strata fees. The ministry was not satisfied the appellant’s strata fees were an unexpected expense.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Regulation - EAPWDR – section 57

PART E – SUMMARY OF FACTS

The evidence and documentation before the minister at the reconsideration consisted of:

1. Information from the ministry's record of decision which indicates:

- On March 8, 2019, the appellant asked if he could submit an overdue strata bill as a crisis supplement. The ministry advised the appellant to submit the bill for review. The appellant stated that the bill was unexpected due to increased strata fees as well as maintenance that had to be completed.
- On March 8, 2019, the ministry denied the request finding that the outstanding strata balance was not unexpected and that the appellant has resources. The appellant reported that he was behind on his strata fees due to illness last year. The ministry states that no information was gathered regarding whether or not the appellant had accessed any alternative or community resources.
- On March 13, 2019, the appellant submitted a Request for Reconsideration. The appellant requested assistance with the payment that was due on March 1, 2019, as well as fees that were past due. The appellant reported that his utility bills were higher than expected.
- The appellant is a sole recipient with Persons with Disabilities designation. He has been receiving assistance since 2014.
- In March 2019, the appellant received \$319.01 from the ministry: \$1,183.42 disability assistance less Canada Pension Plan income of \$864.41. The appellant's shelter costs (last updated in December 2014) are approximately \$542.57 per month. The ministry provides a maximum shelter allowance of \$375 per month.

2. A Request for Reconsideration ("RFR") signed by the appellant on March 13, 2019 with an attached hand-written later in which the appellant provides his argument and indicates that his strata fees are \$175.01 per month. The appellant requests assistance with his March 1, 2019 payment and he also requests the past due amount of \$195.47.

3. A letter from the appellant's strata (signed by the bookkeeper) dated March 6, 2019, stating that all residents are responsible for payment of a monthly strata fee due on the first day of each month. The current monthly fee for the appellant's unit is \$175.01. The fee may be subject to change as decided at the Annual General Meeting ("AGM") which takes place in June of each year. The letter states that the appellant has been unable to keep up with his obligations. As of March 6, 2019, the appellant has a past due payment of \$195.47, as well as an overdue payment of \$175.01 for March 2019. The total amount owing is \$370.48.

Additional information

Subsequent to the reconsideration decision, neither party submitted any new evidence requiring an admissibility determination in accordance with section 22(4) of the *Employment and Assistance Act*. The appellant filed a Notice of Appeal with hand-written statement which the panel accepts as argument. Both parties provided argument at the hearing and did not submit any new evidence.

PART F – REASONS FOR PANEL DECISION

The issue on appeal is whether the ministry reasonably concluded that the appellant was not eligible for a crisis supplement under section 57 of the EAPWDR, for shelter costs, specifically strata fees. On reconsideration, the ministry was not satisfied that the strata fees were an unexpected expense.

The ministry based the reconsideration decision on the following legislation:

Pursuant to the 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*.

Analysis

To be eligible for a crisis supplement, the ministry must be satisfied that the three criteria under section 57(1) of the EAPWDR are met for a family unit that is eligible for disability assistance. The requirements of subsections 57(1)(a) and (b) are conjunctive, meaning that both branches of the test must be met.

In the reconsideration decision, the ministry accepts that there are *no resources available to the family unit* to meet the expense under subsection 57(1)(a) of the EAPWDR. Specifically, the ministry states that the appellant's shelter costs are at least \$200 more than the shelter allowance he receives from the ministry and it follows that he does not have sufficient resources to pay the outstanding strata fees. The ministry acknowledges the appellant only receives a \$375 per month shelter allowance (which can be put toward strata fees and any utilities). The ministry suggests that the appellant enter into a payment plan with the strata so that he can begin to pay off the outstanding debt.

At the hearing, the ministry argued that the criterion of "no alternate resources" was not met at the reconsideration because the appellant has not provided information on any attempts to access resources such as a loan or community rent bank. In the original denial decision of March 8, 2019, the ministry was not satisfied that the legislative criterion of *no resources available to the family unit* was met, but the panel only has the authority to determine whether the reconsideration decision was reasonable. Based on the ministry's acknowledgment that "it is reasonable that (the appellant) does not have sufficient resources to pay the outstanding amount" and considering the reconsideration decision in its entirety, the panel finds that the requirement for no resources was accepted at the reconsideration and is therefore not at issue in this appeal.

In the reconsideration decision, the ministry accepts that imminent danger to the appellant's physical health may result if he does not obtain a crisis supplement for the strata fees. Therefore the criterion for *imminent danger* in subsection 57(1)(b)(i) was met and the only legislative requirement at issue in this appeal is that the crisis supplement must be necessary to meet an unexpected expense under subsection 57(1)(a) of the EAPWDR.

Unexpected expense

Arguments

The ministry argues that strata fees are not an unexpected expense because they are adjusted annually and the appellant has resided at the strata since at least 2014. Therefore, annual increases are not unexpected. The ministry argues there is insufficient evidence to confirm that an unexpected event has prevented the appellant from making the March 1, 2019 payment because no information on additional utility costs has been provided.

The ministry argues that the overdue amount of \$195.47 is not unexpected because it is unclear how long this amount has been outstanding. The ministry notes that the appellant has not provided any documentation or detail with respect to maintenance fees or strata increases to establish that the strata fees are unexpected.

In the Notice of Appeal, the appellant argues that his strata fee is “rent” that has to be paid, and the amount of \$175.01 [*sic*, \$195.47] is from “being behind on strata” and not due to an increase in the rent. In his submission for the reconsideration, the appellant argues that he could not make the payment that was due on March 1, 2019 (\$175.01) because of expensive utility bills that were “higher than expected.” The appellant submits that the past due amount of \$195.47 is because of illness.

At the hearing, the appellant added that he is facing an “emergency situation” because his unpaid strata fees could lead to eviction. The appellant explained that strata fees are a lot like rent as they are used for upkeep, etc. and this is the only time he has run short and requested a crisis supplement. In response to a question from the panel, the appellant explained that his strata fees are regular payments, and not a special assessment for maintenance issues.

Panel’s decision

The panel finds that the ministry reasonably determined the appellant’s strata fees were not an unexpected expense. The appellant’s evidence is that his regular strata fees are \$175.01 per month but he got behind on his March 2019 payment because of an earlier illness. The appellant does not explain how an illness could lead to unexpected strata fees. The letter from the strata confirms that the appellant’s monthly strata fee continues to be \$175.01 per month unless there is an annual increase which is not decided until the AGM in June of each year.

The ministry’s evidence is that the appellant’s overdue strata fees were also due to maintenance that needed to be completed, but there is no evidence on what the maintenance costs were. At the hearing, the appellant indicated there were no special assessments for maintenance and the letter from the strata does not mention maintenance costs, unexpected or otherwise. The appellant submits that his overdue strata fees are because of higher utility bills but as noted by the ministry, no information or documentation was provided for utilities including an unexpected increase in utility costs.

The evidence before the minister at the reconsideration indicates that the appellant has known since at least June 2018 that his monthly strata fees are \$175.01 per month and the letter from the strata does not indicate how long the arrears of \$195.47 has been owing. Considering the information in its entirety, the panel finds that the ministry's determination that strata fees are not an unexpected expense is reasonably supported by the evidence. The panel finds that the ministry reasonably determined the requirement for an unexpected expense under subsection 57(1)(a) of the EAPWDR was not met.

Conclusion

To be eligible for a crisis supplement, all of the criteria in section 57(1) need to be met. At the reconsideration, the ministry found that the requirement for an unexpected expense was not met. The panel finds that the ministry reasonably determined on the evidence that the appellant's strata fees were not unexpected. As only two of the three requirements in section 57(1) of the EAPWDR were met, the panel finds that the ministry's reconsideration decision is reasonable. The panel confirms the decision. The appellant is not successful on appeal.

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 Margaret Koren	
SIGNATURE OF CHAIR	DATE (YEAR/MONTH/DAY) 2019-04-18

PRINT NAME Robert McDowell	
	DATE (YEAR/MONTH/DAY) 2019-04-18
PRINT NAME Katherine Wellburn	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2019-04-18