

APPEAL NUMBER

PART C – DECISION UNDER APPEAL

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Poverty Reduction (the ministry) dated June 17, which held that: the appellant was not eligible for a crises supplement as she did not meet all of the criteria from *Employment and Assistance Regulations*, section 59. In particular, the ministry found that an expense for heating a personal residence was an expected expense, that there were alternate resources available to the appellant to meet the expense, and that the failure to meet the expense would result in imminent danger to the appellants physical health or the removal of the appellant's child.

PART D – RELEVANT LEGISLATION

Employment and Assistance Act (EAA), section 4
Employment and Assistance Regulation (EAR), section 59

PART E – SUMMARY OF FACTS*Information Before The Ministry at Reconsideration*

1. The appellant is a recipient of income assistance with a single dependent;
2. The appellant's Fortis BC account invoice with a payment date of June 3, 2019;
3. The appellant's Fortis BC billing history from June 21, 2018 until May 1, 2019;
4. The appellant's Fortis BC usage summary showing the change in usage between April – May 2018 and April – May 2019;
5. The appellant's Fortis BC consumption history from June – July 2018 to April – May 2019;
6. The appellant had been contacted by Fortis BC about making a payment arrangement but the appellant had not received a disconnection notice;
7. The appellant made a \$100 payment to Fortis BC on March 28, 2019;
8. The appellant made a \$200 payment to Fortis BC on May 23, 2019;
9. On May 30, 2019, the appellant was in arrears \$1,016.39 with Fortis BC;
10. The appellant installed a wood insert in her residence in the fall of 2018 and moved the beds into that room for the winter period to avoid using electric heat;
11. The appellant collected firewood from her property in 2018 and had expected it to last throughout the heating season;
12. The appellant ran out of firewood around March 2019 and had to use electric heat; and
13. The appellant received a \$575 loan from income assistance and used that money to provide Fortis BC with a security deposit.

Information Provided on Appeal

1. The appellant confirmed that she had collected firewood from her property prior to the heating season but because she had never used a wood stove before she underestimated how much wood was required;
2. The appellant had no ability to collect more firewood from the property when she ran low because there was snow on the ground. The panel determined, pursuant to *Employment and Assistance Act*, section 22(4), that this information was admissible because it was in support of the information before the ministry that the appellant had to use electric heat;
3. The appellant had no ability to purchase commercial firewood once she had used all the firewood she had collected. The panel determined, pursuant to *Employment and Assistance Act*, section 22(4), that this information was admissible because it was in support of the information before the ministry that the appellant had to use electric heat.

Summary of Relevant Evidence

1. The appellant is a recipient of income assistance;
2. The appellant knew that she would require heat in her premises during the heating months and that electric heat was more expensive than she could afford so she attempted to heat her premises with a wood insert;
3. The appellant's wood supply was exhausted before the end of the heating system and she needed to rely on electric heat;
4. The appellant is in arrears on her Fortis BC account; and
5. The appellant has not received a disconnection notice from Fortis BC.

PART F – REASONS FOR PANEL DECISION**Issue on Appeal**

The issue on appeal is whether the ministry's decisions that:

1. the appellant's Fortis BC bill was not unexpected;
2. the appellant incurred no unexpected expense that prevented her from paying her Fortis BC Bill;
3. the appellant has alternative resources available; and
4. the appellant's failure to meet the Fortis BC bill will result in imminent danger to the appellant's physical health or the removal of a child

is reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

Relevant Legislation

EAA section 4 states:

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 section 59 states:

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.

...

(7)Despite subsection (4) (b), 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.

Ministry Position

The ministry stated that the appellant was "falling behind on the [Fortis BC] bill for months". It further stated that the appellant's use of electricity, after she ran out of wood, was similar to the "monthly charges for electricity last winter." The ministry further stated that "wood, which when used as fuel it is not expected to run out of". Consequently, the ministry did not accept that the appellant's Fortis BC electricity bill is unexpected or that an unexpected expense prevented the appellant from paying the bill.

The ministry stated that it "accepts that you do not have alternate resources to meet the [Fortis BC] expense; therefore criterion #2 [there are no alternate resources available] has not been met." The ministry was asked during the appeal whether the insertion of the word "not" was an error as there is a logical inconsistency. On the appeal the ministry could not confirm that it was a typographical error, and therefore the ministry asserted that this was its position.

The ministry stated that if the appellant's electricity was disconnected that it would result in imminent danger to the appellant's physical health or the removal of a child.

Appellant Position

The appellant's position was that she made a legitimate attempt to stockpile enough wood to last throughout the heating season. The appellant stated that there are so many factors that determine how much wood is required that she unexpectedly ran out of wood.

The appellant also stated that the ministry was inconsistent when it stated that she did not have alternate resources to meet the Fortis BC expense but that criterion # 2 was not met.

Panel Decision

The panel is very sympathetic to the appellant's situation and recognizes that she anticipated that the expense of heating her home electrically was more than she could afford and therefore took the prudent step of collecting wood to heat her premises. The panel also recognizes that it was very difficult for the appellant to anticipate the amount of wood required because she had not previously used wood heat. However, the panel does agree with the ministry that the requirement to incur an expense, either in purchasing wood or electricity, to heat the appellant's home was not unexpected. The panel notes that even if it was unexpected that the wood supply would be exhausted, the unexpected expense would be limited to the difference in the appellant's Fortis BC charges from the time during which she used wood heat to the times during which she used electric heat. Consequently, the panel finds that the ministry's determination that the appellant incurred an expense to heat her premises was not unexpected is a reasonable application of the applicable enactment.

With regard to the criterion that no alternate resources are available to meet the expense, the panel finds that if the minister "accepts that [the appellant does] not have alternate resources to meet the expense" that this criterion is met. Consequently, the panel finds that the ministry's determination that the appellant did not meet that criterion was not a reasonable application of the information before it, nor a reasonable application of the applicable enactment in the circumstances of the appellant.

With regard to whether the failure to meet the Fortis BC expense would result in imminent danger to the appellant's physical health or the removal of a child, the panel notes that the ministry found that this criterion was met. The panel notes that the appellant has not received a written disconnection notice from Fortis BC, however, that is not a requirement and Fortis BC can disconnect service if there is an outstanding balance. Consequently, the panel finds that the ministry's determination that the failure to pay the balance owing on the Fortis BC account would result in imminent danger to the appellant's physical health or the removal of a child is a reasonable application of the information before the ministry and a reasonable application of the applicable enactment in the circumstances of the appellant.

APPEAL NUMBER

In conclusion, although the panel would rescind the ministry's determination that the appellant had resources available to satisfy the Fortis BC expense, the panel finds that the ministry's decision that the appellant was not entitled to a crises supplement pursuant to EAR section 59, was reasonably supported by the evidence and was a reasonable application of the applicable enactment in the circumstances of the appellant. This is because all criterion must be met under section 59 and the panel confirms the ministry's decision that an expense for home heating was not an unexpected expense during the heating season.

APPEAL NUMBER

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

Trevor Morley

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019/07/22

PRINT NAME

Jim Jones

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/07/22

PRINT NAME

Charlie Schellinck

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/07/22