

APPEAL NUMBER

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 June 20, 2019, 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 faced an unexpected expense, the Appellant had not demonstrated that she 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.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Act (EAA), section 5
Employment and Assistance for Persons with Disabilities Regulation (EAR), section 57(1)

PART E – SUMMARY OF FACTS

Neither the Appellant nor a representative of the Ministry appeared at the appeal. After confirming that the Appellant and the Ministry were notified of the date and time of the hearing, the hearing proceeded pursuant to Section 86(b) of the *Employment and Assistance Regulation*.

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.

A. Evidence at the Time of Reconsideration

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

(1) The Request for Reconsideration dated June 12, 2019

Which contained no submissions by the Appellant.

(2) The Original Decision to be Reconsidered dated June 7, 2019, which stated

- That the Appellant contacted the Ministry on June 6, 2019 to request a crisis supplement for shelter, because her friend had been over the previous day and that friend stole \$120 from the Appellant's wallet and \$1200, consisting of \$800 for rent and \$400 for a security deposit, from her hiding place
- That the Appellant was expecting the landlord to come and pick up the rent because it was as yet unpaid
- That in reviewing the Appellant's file, she had made a similar request in October and December 2018, alleging that money had been stolen
- That in a review of the Appellant's file, she had a total of 20 crisis supplement requests in the last year along with claims for 2 lost or stolen cheques
- The grounds upon which a crisis supplement may be granted under section 57 *EAPWDR*.

The panel notes that the Ministry did not provide a copy of the original request for a crisis supplement in the appeal materials constituting a "Record of the Ministry Decision", nor did it provide the submissions of the Appellant to the Reconsideration officer.

Evidence Provided on Appeal**Appellant**

In her Notice of Appeal dated July 1, 2019 the Appellant states as her Reasons for Appeal

- She had \$1200 stolen from her
- There is a police investigation, file number 19 – 5671

Appellant's Submissions

There were no submissions by the Appellant because she did not attend.

Ministry***Ministry Submissions***

There are no submissions by the Ministry because no representative attended.

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

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 June 20, 2019, and which denied the Appellant's request for a crisis supplement for shelter for a month which is not stated, was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the Appellant.

While the Appellant satisfied the minister that the Appellant faced an unexpected expense, the Appellant had not demonstrated that she had no resources available with which to pay the outstanding rent, and further had not satisfied the minister that failure to receive the crisis supplement for shelter may present imminent danger to the Appellant's physical health.

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 need for funds was unexpected. The Ministry was not satisfied that the Appellant met the other 2 criteria; the Minister was not satisfied that the Appellant had no alternate resources and was not

satisfied that failure to obtain a crisis supplement for shelter would result in imminent danger to the Appellant's physical health.

The analysis will therefore focus on 2 of the 3 criteria; whether or not the Appellant has alternate resources available to her, and whether or not failure to meet the expense will result in imminent danger to the Appellant's physical health. 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 Minister was satisfied that the Appellant faced an unexpected expense, and this criterion was not an issue.

Section 57(1)(a) - No Resources Available

The 2nd half of the subsection reads "... *there are no resources available to the family unit*". At Reconsideration, the reconsideration officer determined that because the Appellant's landlord had agreed to an alternate payment plan, the Minister did not accept that there were no alternate resources available with which to pay the Appellant's rent and therefore this criterion had not been met.

Section 57(1)(b) - Imminent Danger to Physical Health

This subsection requires that the Appellant demonstrate that failure to pay the expense will result in imminent danger to the Appellant's physical health. At Reconsideration, the Reconsideration officer found that because the Appellant had agreed to a payment plan with the landlord, and was not facing eviction, there was no threat of imminent danger to the Appellant's physical health.

Appellant's Position

The Appellant's position was taken to be as stated in her Notice of Appeal, as there was no other evidence nor any submissions from her.

Ministry Position

The Ministry's position was taken to be as stated in the Reconsideration Decision, as there was no other evidence nor any submissions from the Ministry.

Panel Finding

The panel notes that in the material provided by the Ministry the Appellant's initial application was not provided nor were her submissions to the Reconsideration officer. There was no evidence before the panel concerning the agreement that the Reconsideration officer found had been made between the Appellant and the Appellant's landlord for the landlord to accept a payment arrangement to pay the outstanding rent and security deposit nor was there any evidence that the Appellant was to be evicted, which might have led to her being without shelter and therefore potentially posed an imminent danger to her physical health.

The panel observes that in the absence of any such evidence in the record received from the Ministry, had the Appellant attended at the Appeal, and had denied that she had made an agreement with the landlord to pay back the outstanding rent and security deposit and had been threatened with eviction, that may have been sufficient evidence to meet the legislative requirements under Criteria #2 and #3 of section 57(1) *EAPWDR* and the Appellant might very well have been successful in her appeal.

As noted earlier, there was no issue that the Appellant, as a Person with Disabilities, had satisfied the minister that she faced an unexpected expense.

The issue is whether or not the Appellant has resources available with which to meet the expense, and whether or not there is imminent danger to the Appellant's physical health as a result of failing to pay the rent, which are the criteria upon which the Reconsideration Decision denied the Appellant's claim.

The panel finds that there are alternate resources available to the Appellant with which to pay her outstanding rent and security deposit, specifically the agreement between the Appellant and her landlord for a payment arrangement, and that therefore this criterion has not been satisfied

The panel finds that because the Appellant is not facing eviction and the possibility of being homeless, there is no imminent danger to her physical health, and therefore this criterion has not been satisfied.

The panel finds that 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 June 20, 2019, and which denied the Appellant's request for a crisis supplement for shelter for a month which is not stated, was reasonably supported by the evidence and was a reasonable application of the legislation in the circumstances of the Appellant.

Therefore the panel confirms the Ministry decision and the Appellant is not successful in her appeal.

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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 (DAN) McLEOD

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019/JULY/22

PRINT NAME

LINDA PIERRE

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/JULY/22

PRINT NAME

LINDA SMERYCHYNSKI

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/JULY/22