

APPEAL NUMBER

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated June 26, 2019 where the ministry denied the appellants request for a crisis supplement to pay campground fees because it did not meet the legislated requirements set out in Section 59 of the Employment and Assistance Regulation (EAR).

PART D – RELEVANT LEGISLATION

Employment and Assistance Act, Section 4
Employment and Assistance Regulation, Section 59

PART E – SUMMARY OF FACTS**Information before the ministry at reconsideration:**

The appellant is a sole recipient with 5 dependant children whose file opened January 30, 2019 (Panel note: this is a correction for a presumed typing error in the reconsideration submission which showed June 30, 2019. January 30, 2019 matches the time the appellant arrived in BC and it is known that the appellant has received assistance for months). During the month of June, the appellant received the following assistance:

- \$550.33 support and family bonus top up
- \$785 shelter
- \$67 medical transportation
- \$240 crisis supplement for food
- \$650 security deposit for new residence in July
- Additionally received \$848.25 National Child Benefit and June employment earnings (Panel note: at the hearing the ministry representative indicates this was an error and should read \$2600 including child tax benefit and a disability payment. The appellant raised no objection.)

On June 11, 2019 the appellant submitted a request for a crisis supplement for shelter noting that the need was to pay campground fees for 2 weeks and 1 night until she moved into her new residence. An arrangement was made with the campground to pay half of the fees on June 13th and the remaining on June 20th with only \$35.32 in cash on hand to pay for gas. The appellant stated that income assistance rates are not sufficient for a family of five, that June shelter funds were spent paying camp fees and would like more funds, had been living in campgrounds for the past 8 weeks and spent money on regular expenses including food, gas and bills. The appellant advised that the father of one of the children babysat and the appellant was paid on June 7th. but it was spent on daycare and gas.

The ministry reviewed the request and on June 11, 2019 the request for a crisis supplement for shelter was denied noting that the cost of camping was not an unexpected expense.

On June 12, 2019 the appellant submitted a request for reconsideration along with additional information provided to the ministry on June 24, 2019. The appellant stated that:

- She was not told about the BC Childcare subsidy until a week ago, the appellant and kids have been sick, she was told because the family unit were living in tent this is not considered a crisis.
- On June 12, 2019 she had asked for help with paying rent at the campground, gas to drive to work and move every two weeks. She was driving and picking up youngest son's dad to babysit and I paid him as baby sitter from May 6, 2019 to June 13, 2019 when she was let go from her job. All income went to rent, gas, bills and food.
- For the past 5 weeks the family unit has not had power because those spots are cheaper, but they needed propane for BBQ and must pay for wood and need to pay for showers.
- The money that was supposed to pay for other bills like pet deposit and rent has been paid for camping; was informed the \$785 received for rent is for rent, heat, water and power.
- Have added up for 3 months rent (shelter allowance) @ \$785 = \$2355 and I have paid \$3400.30 mostly on debit cards for camping not including propane or wood and showers. Camping fees do not include amount to buy tents, beds, BBQ and sleeping bags.

On June 26, 2019 the ministry completed its review of the request for reconsideration and denied the appellant's request.

Notice of Appeal

On July 9, 2019 the appellant signed a notice of appeal in which she states: "because of lack of information pertaining to the child care situation and me paying my baby sitter to watch 2 of my special needs children while watching his son".

Hearing

The panel conducted an oral in person hearing on July 30, 2019.

In attendance at the hearing, in addition to the appellant, the ministry, and the panel was a support person for the appellant and a ministry observer. No one objected to their attendance.

In accordance with section 22(4) of the Employment and Assistance Act, the panel can only admit evidence that was before the ministry at the time of reconsideration and evidence that is in support of the information and records that were before the ministry at the time of reconsideration. During the ministry presentation, the ministry brought to the panels attention some specific points to clarify items raised by the appellant. They were:

- In addition to the \$240 received by the appellant in June as a crisis supplement for food, the ministry records showed that at least one other crisis supplement for food was granted to the appellant
- Shelter funds are issued when shelter is verified, including for campgrounds and this verification can be as simple as the ministry calling the campground.
- The ministry records revealed to her that there was a substantial crisis supplement for housing history. On Feb. 12, 2019, a \$600 crisis supplement for housing was paid to a hotel. On March 6, 2019, a \$170 crisis supplement housing was paid to a hotel. On March 14, 2019, a crisis supplement was denied as the appellant had reached the maximum allowed. On April 7, 2019 a crisis supplement for housing was paid to a campground. All of these supplements were in addition to her \$785 housing supplement. At this point she noted the records of the ministry indicate the appellant was cautioned that future requests for a crisis supplement might be difficult.

The panel considered this information and, while not in the reconsideration decision, determined that the information was in support of the information and records that were before the ministry at the time of reconsideration and so was admissible. The appellant did not object but noted she was concerned the amounts and dates were different and would need her bank records to confirm.

In her submission to the panel, the appellant repeated much of her written submissions and added:

- She left an abusive relationship in [REDACTED] and arrived in BC on January 22, 2019. She initially went to a hotel with her 5 children and dog after not being admitted to a shelter. A shelter referred her to the ministry. In February she commenced camping as the hotel was not viable. She got a job and one of her children's father baby sat while she worked nights.
- She camped from March to July with all of her money going to take care of kids, paying the baby sitter and camping required her to move every two weeks. She did not receive any or all of her housing payments before June,
- In response to questions she indicated that there were no outstanding debts with a campground and paid it out of her pocket as she didn't get help. She was now living in her permanent housing. She has not applied for a child care subsidy. She was uncertain about the dates and amounts she received funds. The crisis supplement of June was unexpected because camping rates went up; didn't receive the housing amounts she needed to ensure her children were safe.

The ministry, in their submission to the panel reiterated that the reconsideration decision was in connection with the June request for a crisis supplement only and that there were three legislated requirements to determine eligibility.

- The need was not unexpected. The appellant had been living in the campground and a hotel before and was receiving \$785 as a housing allowance and presumably was budgeting accordingly and therefore the need was not unexpected.
- The applicant had no other personal resources. The ministry noted that in June the appellant had, by their estimation over \$5,000 in resources (federal benefits \$2600, \$240 crisis supplement for food, \$890 from employment, \$550.03 support and family bonus top-up, \$67 medical transportation, \$650 security deposit for new residence, \$785 shelter). Therefore, the ministry was not convinced there were insufficient personal resources.
- The ministry agreed that there may be an imminent danger.

APPEAL NUMBER

All other expenses are considered day to day living expenses and not considered unexpected. Laundry expenses could not be verified.

PART F – REASONS FOR PANEL DECISION

The issue in this appeal is whether the ministry's decision to deny the appellant's request for a crisis supplement for housing because the request does not meet the legislated requirements set out in EAR, Section 59 is reasonably supported by the evidence or a reasonable application of the legislation in the circumstances of the applicant.

Legislation**Employment and Assistance Act**

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.

Employment and Assistance Regulation**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 \$40 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) and (6) Repealed. [B.C. Reg. 248/2018, App. 1]

(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 position is that the appellant's request for a crisis supplement housing does not meet the legislated requirements of the EAR Section 59 which provides that to be eligible for a crisis supplement, the supplement must be required to:

- Meet an unexpected expense, or obtain an item unexpectedly needed, and, the appellant has no resources available to meet the expense. The ministry contends that camping fees is a shelter expense, not an unexpected expense and the appellant has not submitted other unexpected expense items that indicates she was unable to pay shelter expenses. The ministry argues that crisis supplements are for unexpected emergency needs to prevent imminent danger to health and not intended to augment monthly assistance. The ministry asserts that paying for childcare, gas, food, etc. are all day to day living expenses which were not unexpected expenses as she was living in the campground and receiving a shelter allowance.
- The ministry noted here that the appellant indicated the amount paid for campground fees was more than the rate for shelter fees (shelter allowance), but also noted the appellant had access to support funds, national child care benefits and employment income and therefore the ministry is not satisfied the appellant did not have resources available to pay camping fees.

- The ministry considers the failure to meet the expense or obtain the item will result in an imminent danger to the physical health of any member of the family unit, or removal of a child under the Child, Family and Community Service Act. The ministry here concedes that failure to pay camping fees may result in imminent danger to the appellant or the appellant's family unit.

Accordingly, the ministry found the appellant did not meet the legislated requirements of Section 59 of the EAR.

Appellant Position

The appellant's position is that the request for a crisis supplement is needed to pay for the campground for 2 weeks and 1 night until moving into our new place. They were unable to pay this because they were paying for food, clothing, shoes, gas, rent, utilities, prescriptions, laundry, car insurance, past debts and her baby sitter.

Arrangement have been made to pay one half of the campground fees on June 13, 2019 and one half on June 20, 2019. The appellant has no resources to pay this and only \$35.32 to pay for gas. The direct threat to health and safety is that the children need a safe place to live; we cannot be living in the streets.

The appellant was not told about child care subsidies. She paid her youngest son's father to baby sit from May 6, 2019 to June 13, 2019, when she was laid off. The past 5 weeks the family unit had a campsite with no power as it was cheaper leaving them to cook with a portable BBQ and requiring the purchase of propane and wood and shower tokens. The money the appellant was supposed to pay for other bills like the pet deposit and rent was spent on camping fees. The appellant added up for 3 months of rent at \$785 = \$2355 but paid \$3400.30 for 3 months of camping, not including propane, wood or shower tokens nor the amount to buy the tents, beds, BBQ and sleeping bags; because of lack of information pertaining to the child care situation and me paying my baby sitter to watch my two special needs kids while watching his son.

Panel Decision

The issue in this appeal is the ministry reconsideration decision to deny the appellant's request for a crisis supplement for housing to pay for camping fees citing Section 59 of the EAR.

Under the Employment and Assistance Act, subject to the regulations, the minister may provide income assistance or a supplement to or for a family unit that is eligible for it. Section 59 of the Employment Assistance Regulations details the eligibility requirements for a family unit that is eligible for assistance. The appellant is a sole recipient of assistance with 5 dependant children who requested a crisis supplement for two weeks and 1 night because her total living expenses exceed the funds available to her, including personal resources. Her position is that this request is because there is a direct threat to her and her children's health and safety.

The ministry position is that the appellant does not meet the requirements of EAR Section 59 (1)(a) as the supplement is intended to meet an unexpected need or obtain an item unexpectedly needed but not to supplement the family unit's ongoing living expenses. As evidence the ministry shows that in June the appellant was in receipt of a \$785 housing allowance and had been living in the campground for some time. The panel considers this to be a reasonable view of the situation and the appellant's circumstances. The appellant had a plan to live in the campground until her new premises were available and in that sense camping fees were not unexpected, notwithstanding that the cost of this and related expenses exceeded the funds available. Similarly, other expenses such as tents, sleeping bags and a BBQ cannot reasonably be considered unexpected as they are required for camping, notwithstanding the impact on the family unit's finances. The Panel concurs with the ministry assertion that to be an unexpected expense the expense must be of an emergency nature rather than the consequence of a failure to budget or allocate funds to various living requirements. Accordingly, the panel agrees with the ministry finding that the expense does not meet the requirement of meeting an unexpected expense in EAR Section 59 (1)(a).

The ministry goes on to question the balance of the requirement of EAR Section 59 (1)(a), that being the inability to meet the expense from personal resources noting the resources available to the appellant in asserting the ministry's conclusion that they were not satisfied the appellant did not have sufficient resources. On the other hand, the appellant provided some financial information detail suggesting that financial resources exceeded funds available. The ministry points to over \$5000 as being available to the appellant in June. The panel accepts the ministry figure of "over \$5000" as reasonably accurate, noting that the appellant's assertions that she was not able

to confirm this without her bank records was not conclusive. Clearly the appellant had substantial resources available in June and her inability to cover all of her expenses does not satisfy the panel that she couldn't meet her camping expenses. Therefore the panel agrees with the ministry decision to conclude that they were not satisfied that the appellant had insufficient resources to pay the camping fees.

With respect to EAR Section 59 (1)(b) there is no disagreement as the ministry has conceded that that failure to meet the expense may result in an imminent danger to the physical health of any person in the family unit. The appellant has two special needs children and she asserts they cannot live in the street. The panel concurs with the ministry that the request meets the requirements of EAR Section 59 (1)(b).

In summary then, the ministry found that the appellant's request did not meet both of EAR Section 59 (1)(a) and EAR Section 59 (1)(b) and denied the appellant's request. The panel agrees with the ministry position on EAR Section 59 (1)(a) and EAR Section 59 (1)(b). The appellant's case does not refute the ministry position on the unexpected nature of the expense.

Conclusion

The panel confirms the ministry reconsideration decision as it was a reasonable application of the legislation. The appellant is not successful on appeal.

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

Keith Lacroix

DATE (YEAR/MONTH/DAY)

2019/07/30

SIGNATURE OF CHAIR

PRINT NAME

Don Stedeford

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

PRINT NAME

Bob Fenske

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)