

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry's reconsideration decision dated October 29, 2019 which held that the appellant was not eligible for a security deposit for shelter under sections 5 of the Employment and Assistance for Persons with Disabilities Act (EAPWDA) and regulation 56 of the Employment and Assistance for Persons with Disabilities Regulations (EAPWDR).

Specifically, the ministry noted the following criteria set out in section 56 of the EAPWDR states that the Residential Tenancy Act (RTA) defines what a security deposit is and who the RTA applies to, indicating that the appellant is ineligible for a security deposit:

Supplement to pay a security deposit

56(1) In this section...:

"security deposit" means a security deposit as defined in the Residential Tenancy Act, or an amount required by a cooperative association to be paid by a recipient to the cooperative association for the same or a similar purpose as a security deposit under the Residential Tenancy Act.

The Residential Tenancy Act**What this Act does not apply to**

4 This Act does not apply to...:

(c) living accommodation in which **the tenant shares bathroom or kitchen facilities** with the owner of that accommodation....,

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Act (EAPWDA), section 5
Employment and Assistance for Persons with Disabilities Regulations (EAPWDR), regulation 56

PART E – SUMMARY OF FACTS

The following key dates and information were noted:

The appellant is a recipient of Persons with Disabilities benefits as a single parent.

On September 19, 2019 she submitted an Intent to Rent form in anticipation of a move on October 1, 2019 to new accommodation with a monthly rental fee of \$850.00. The landlord was requesting a security deposit of \$425.00. The Intent to Rent form indicated that she would be sharing a kitchen or bathroom with the owner.

On September 23, 2019 the request for a security deposit was denied.

On September 26, 2019, she requested a reconsideration of this decision.

On October 21, 2019, the minister received her signed Request for Reconsideration.

On October 29, 2019, the minister reviewed her Request for Reconsideration.

Background:

On September 17, 2019, the appellant submitted a completed Shelter Information Form for anticipated move. On the form, the applicant indicated that she would be sharing a kitchen or bathroom with the owner and that a security deposit of \$425.00 was required.

The appellant provided the following statement dated October 9, 2019 in her Request for Reconsideration:

“Well I’m not really sharing the kitchen or bathroom, I have my own of cooking. We just share the fridge and I have a two piece bathroom to ourselves. I just shower in main bathroom.”

In the Reconsideration Decision dated October 29, 2019, the ministry provides the following information:

“You advise that you use the kitchen to wash your dishes and store food in the refrigerator, and that despite having a 2 piece bathroom for you and your daughter, you use the shower in the shared bathroom as you do not have a shower or bathtub in your two piece bathroom. While the minister acknowledges that you have access to a cooking surface of your own, as well as a mini-fridge , mini freezer and a 2 piece bathroom, you have confirmed that you also share both the kitchen and bathroom with the owners.”

On November 5, 2019, the appellant submitted a submission with her Notice of Appeal stating that: “We have our own bathroom and kitchenette, ... we share laundry facility. I disagree because we don’t share anything. I have my own two bedrooms.”

Applicable Legislation:

Employment and Assistance for Persons with Disabilities Act, Section 5 disability assistance and supplements.
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, Section 56

Supplement to pay a security deposit

56(1) In this section:

"cooperative association" means a cooperative association as defined in the *Real Estate Development Marketing Act*;

"security deposit" means a security deposit as defined in the *Residential Tenancy Act*, or an amount required by a cooperative association to be paid by a recipient to the cooperative association for the same or a similar purpose as a security deposit under the *Residential Tenancy Act*.

(2) The minister may provide a security deposit to or for a family unit that is eligible for disability assistance or hardship assistance if

- (a) the security deposit is necessary to enable the family unit to rent residential accommodation,
- (b) the recipient agrees in writing to repay the amount paid under this section, and
- (c) the security deposit does not exceed 50% of one month's rent for the residential accommodation.

(3) The minister may recover the amount of a security deposit provided under subsection (2) by deducting \$20 for each calendar month, or a greater amount with the consent of a recipient, from disability assistance or hardship assistance provided to or for the family unit starting with the disability assistance or hardship assistance provided for the calendar month following the calendar month during which the security deposit is paid.

(4) The minister must not provide more than 2 security deposits to or for a family unit unless

- (a) only one of the security deposits has not been recovered or repaid,
- (b) the family unit requires up to one more security deposit to change rented residential accommodation
 - (i) because the recipient is separating from an abusive spouse, or
 - (ii) because the family unit's rented residential accommodation
 - (A) is being sold or demolished and a notice to vacate has been given, or
 - (B) has been condemned, or
 - (c) the minister is satisfied that the family unit is homeless or at imminent risk of becoming homeless.

(5) For the purposes of subsection (3), **"security deposit"** includes a security deposit provided on or after April 1, 2002 under the

- (a) Disability Benefits Program Regulation, B.C. Reg. 79/97,
- (b) Income Assistance Regulation, B.C. Reg. 75/97,

- (c) Youth Works Regulation, B.C. Reg. 77/97, or
 - (d) Employment and Assistance Regulation.
- [am. B.C. Regs. 518/2004, s. 8; 315/2008, s. (b).]

Added for reference only is the legislation contained within the BC Residential Tenancy Act:

What this Act does not apply to

4 This Act does not apply to

- (a) living accommodation rented by a not for profit housing cooperative to a member of the cooperative,
- (b) living accommodation owned or operated by an educational institution and provided by that institution to its students or employees,
- (c) living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation,
- (d) living accommodation included with premises that
 - (i) are primarily occupied for business purposes, and
 - (ii) are rented under a single agreement,
- (e) living accommodation occupied as vacation or travel accommodation,
- (f) living accommodation provided for emergency shelter or transitional housing,
- (g) living accommodation
 - (i) in a community care facility under the [Community Care and Assisted Living Act](#),
 - (ii) in a continuing care facility under the [Continuing Care Act](#),
 - (iii) in a public or private hospital under the [Hospital Act](#),
 - (iv) if designated under the [Mental Health Act](#), in a Provincial mental health facility, an observation unit or a psychiatric unit,
 - (v) in a housing based health facility that provides hospitality support services and personal health care, or
 - (vi) that is made available in the course of providing rehabilitative or therapeutic treatment or services,
- (h) living accommodation in a correctional institution,
- (i) living accommodation rented under a tenancy agreement that has a term longer than 20 years,
- (j) tenancy agreements to which the [Manufactured Home Park Tenancy Act](#) applies, or
- (k) prescribed tenancy agreements, rental units or residential property.

PART F – REASONS FOR PANEL DECISION

The decision under appeal is the Ministry's reconsideration decision dated October 29, 2019, 2019 which held that the appellant was not eligible for a security deposit under sections 5 of the Employment and Assistance for Persons with Disabilities Act (EAPWDA) and regulation 56 of the Employment and Assistance for Persons with Disabilities Regulations (EAPWDR).

Specifically, the ministry found that the appellant's request for a security deposit could not be granted because she shares a kitchen or bathroom with the owner (defined by the RTA). She indicated on her Shelter Information form, her Request for Reconsideration and in her statements to the ministry that she does share these facilities within her rental home.

Findings of the Panel:

All information submitted to the appeal panel was carefully reviewed and the appellant's submissions were considered.

The panel finds that the ministry's reconsideration decision of October 29, 2019, which held that denial of the appellant's application for a crisis for shelter supplement, was a reasonable application of the Employment and Assistance for Persons with Disabilities Act (EAPWDA), Section 5, as well as the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Section 56, considering the information submitted at the time of reconsideration and the circumstances of the appellant. The appellant, by her own admission on the Shelter Information form, her statements in her Request for Reconsideration submission and in her discussions with the ministry shares the kitchen and bathroom facilities with the owner of her rental home. The panel acknowledges her statement made on November 5, 2019 that she disagrees with the Ministry's decision because they "don't share anything" as a contradiction to the information provided. As the appellant did not provide details as to why this information had changed, example: renovations to the home she is living in, the panel was unable to verify the new statement.

The panel confirms the ministry's decision. The appellant is unsuccessful in her 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

Jan Lingford

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019/12/20

PRINT NAME

Bill Haire

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/12/20

PRINT NAME

William (Bill) Reid

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/12/20