

APPEAL NUMBER

**PART C -- DECISION UNDER APPEAL**

Under appeal is the reconsideration decision of the Ministry of Social Development and Poverty Reduction (the ministry) dated November 21, 2019, which held that the appellant was not eligible for a crisis supplement to pay November 2019 rent because the supplement was not needed for an unexpected expense (or item), which is a requirement of section 57(1) of the Employment and Assistance for Persons with Disabilities Regulation (the Regulation).

The ministry accepted that the other two requirements of section 57(1) were met - the appellant does not have resources to pay November rent and failure to pay November rent will result in imminent danger to the appellant's physical health.

**PART D -- RELEVANT LEGISLATION**

Section 57(1) of the Regulation

**PART E – SUMMARY OF FACTS**

A ministry observer attended the hearing with the consent of the appellant.

*Information before the ministry at reconsideration*

The appellant is a recipient of monthly disability assistance in the amount of \$1,183.42 (\$808.42 support allowance and \$375 shelter allowance). The appellant also receives a monthly nutritional supplement of \$205 and a \$52 monthly transportation supplement. The appellant's monthly rent is \$900.

On September 25, 2019, the appellant telephoned the ministry and requested that direct payments to the appellant's landlord be stopped because the appellant might be moving. Direct payments were stopped effective November 1, 2019.

On November 4, 2019, the appellant requested a crisis supplement for shelter. The appellant reported being \$440 short on November 2019 rent because of issues with the bank and iTunes taking money from the appellant's bank account fraudulently. The appellant explained that Apple had been taking money from three different bank accounts for years. The appellant submitted an eviction notice and receipt dated Nov 4/19 indicating that \$500 had been paid towards November 2019 rent and that a balance of \$447 was owing. [Copies of both documents are included in the appeal record.] The ministry requested the appellant provide bank statements to demonstrate the fraudulent activity. The ministry reviewed the appellant's file and noted that a crisis supplement for food was requested in October for the same reason.

On November 6, 2019, the appellant told the ministry that the fraudulent activity had been happening for years. The appellant was denied a crisis supplement for November 2019 rent because the need to pay rent was not unexpected because the bank problems were recurring.

On November 8, 2019, the appellant requested reconsideration of the ministry's denial of the crisis supplement for November 2019 rent. In the request form, the appellant explains that the shelter allowance of \$375 does not cover rental costs anywhere in the province and that the appellant relies on the support allowance to pay rent when it hasn't been taken from the account [by iTunes]. The appellant states that a shelter crisis grant has not been requested for the year and half the appellant has lived at the current residence. The appellant continues to report the fraud and identity theft and the bank and police are aware of the situation.

*Information and documentation provided on appeal and admissibility*

Both the Notice of Appeal (NOA), dated December 2, 2019, and the appellant's testimony at the hearing outlined the reasons why the appellant believes the crisis supplement was required to meet an unexpected need, which are set out in Part F of this decision along with the ministry's reasons for denial.

Otherwise, the information provided by the appellant at the hearing reiterated the information available at reconsideration: that the appellant had received crisis supplements for food in the past year but had not made a request for a crisis supplement for shelter at the current residence, that money being taken from the appellant's bank accounts has been going on for years and that the \$375 monthly shelter allowance provided by the ministry is insufficient to cover anyone's rental costs. The appellant also reported being unsure if bank statements had been provided to the ministry.

At the hearing, the ministry reviewed the reconsideration decision and explained the importance of providing documentation (bank statements and a fraud case file number) to support the appellant's claims.

In accordance with section 22(4) of the *Employment and Assistance Act* (EAA), the panel may admit as evidence only (a) information and records that were before the minister when the decision being appealed was made, and (b) oral or written testimony that is in support of the information and records available at the time of reconsideration. As neither party introduced new information, a determination on admissibility was not required.

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

The issue on appeal is whether the ministry's decision to deny the appellant a crisis supplement for November 2019 rent was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. That is, was the ministry reasonable when determining that the information did not establish that the rent was an unexpected expense?

**Relevant Legislation** – section 57 of the Regulation**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.

(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;
- (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. 2, s. 2.]

(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.

### **Panel Decision**

Section 57(1) of the Regulation allows the minister to provide a crisis supplement if all of the following three requirements are met:

- #1 the supplement is required for an unexpectedly needed item or an unexpected expense,
- #2 there are no resources available to cover the expense or obtain the item, and
- #3 if failure to obtain the item or meet the expense will result in imminent danger to physical health.

As previously noted, the ministry concluded that requirements #2 and #3 were met.

In concluding that requirement #1 was not met, the ministry argues that crisis supplements are meant to address urgent situations that cannot reasonably be planned for or anticipated and are not intended to augment monthly assistance. The ministry found that the appellant's November 2019 rent expense was not unexpected because the appellant reports that money has been fraudulently taken from the bank account(s) for years, and is therefore not an unexpected occurrence. The ministry also notes that the appellant has provided no information to show what is happening with the bank account(s) and was aware that the result of directing the ministry to stop direct deposits to the landlord would be the deposit of the shelter allowance money into the same bank account from which the appellant reports funds are taken without the appellant's authority.

The appellant argues that the ministry may have misconstrued the crisis request for shelter funds because it was not a recurring situation for the appellant to request a crisis supplement for shelter; while crisis supplements for

food had been requested in the past year, this was the first request for a crisis supplement for shelter over the 1 ½ years the appellant has resided at this residence. The appellant also argued that the unauthorized removal of money from the bank account is unexpected to the appellant because someone else is taking the money out of the bank account.

The panel considers the ministry reasonable in concluding that the appellant's request for a crisis supplement for shelter was not to meet an unexpected expense. The appellant had resided at the same residence for some time prior to November 2019 and it is not unexpected that the appellant would need to continue paying monthly rent. Additionally, as the ministry notes, the appellant knowingly directed the ministry to put the shelter allowance funds into the appellant's bank account despite the years' long alleged fraudulent removal of funds from this and other bank accounts held by the appellant. Finally, as the ministry notes the appellant has not provided information to establish fraudulent bank account activities.

For the above reasons, the panel finds that the ministry's decision that the appellant was not eligible for a crisis supplement for November 2019 rent was reasonably supported by the evidence and was a reasonable application of section 57(1) of the Regulation.

The ministry's decision is confirmed and the appellant is not successful on 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

Jane Nielsen

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019/12/19

PRINT NAME

Melissa McLean

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/12/19

PRINT NAME

Donald Storch

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/12/19