

APPEAL NUMBER

2020-00079

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) Reconsideration Decision of March 2, 2020 in which the Ministry determined that the Appellant was ineligible for a crisis supplement for repair or replacement of a hot water tank because the legislative criteria set out in Section 57 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) had not been met.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Regulation section 57

PART E – SUMMARY OF FACTS

The appellant did not attend the hearing. After confirming that notification of the hearing had been received, and waiting additional time for the appellant to call in, the panel proceeded under Section 86(b) of the EAA.

The appellant is a sole recipient of disability assistance.

The information before the Ministry at the time of reconsideration included the following:

- A Request for Reconsideration dated February 11, 2020 in which the appellant wrote:
 - the hot water tank blew and is not working so requires a new tank; and
 - due to their disability, this is an emergency because a shower is required daily and they will not be made to live in the accidents because it is inhumane.

On the Notice of Appeal form the appellant included a note explaining their disability, that sometimes up to three showers a day are required, with the Coronavirus a hot water tank shouldn't be denied, and the cost to replace it is \$500 to \$800, which they cannot afford.

The appellant did not attend the hearing so the panel will reference the written statements in the Record of Appeal as to their position.

At the hearing, the ministry reviewed the Reconsideration Decision and highlighted that the ministry was satisfied, in the appellant's circumstance, no resources were available and that there was imminent danger to health, however they were not satisfied there was an unexpected need. The ministry argues the appellant knew five or six years ago when they bought the trailer that the hot water tank was four to five years old at that time, so it was not unexpected it would need to be replaced. The ministry acknowledged the appellant may not have expected the tank to go at that particular time, however it is not unexpected that a hot water tank over ten years old would need to be replaced.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is the reasonableness of the ministry's Reconsideration Decision dated March 2, 2020, wherein the ministry denied the Appellant a crisis supplement to repair or replace a hot water tank.

The panel must determine whether the ministry's decision that the Appellant did not satisfy the statutory criteria as set out in section 57 of the EAPWDR was either reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the Appellant.

The relevant legislation is as follows:

EAPWDR**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*.
 - (c) A crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made.
 - (d) 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 sum of
 - (A) the maximum set out in section 2 of Schedule A and the maximum set out in section 4 of Schedule A, or
 - (B) the maximum set out in Table 1 of Schedule D and the maximum set out in 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)-(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.

The appellant's position is the hot water tank blew and due to their disability it is critical they have daily, if not more frequent, showers and they do not have the resources to pay \$500 to \$800 to have the tank replaced.

The ministry's position is that all three conditions of section 57 of the EAPWDR must be met to be eligible for a crisis supplement and the appellant has not met the unexpected need condition because the appellant had not indicated anything unexpected occurred to prevent them from being able to repair or replace the tank, nor was it unexpected for it to need repair or replacement at nine to eleven years old.

Panel Decision

Section 57(1) of the EAPWDR specifies three conditions that must be met to qualify for a crisis supplement. These are:

- the supplement is required to meet an unexpected expense or obtain an item unexpectedly needed;
- failure to meet the expense or obtain the item will result in imminent danger to health; **and**
- there are no resources available to meet the need.

The panel must consider the facts of this case as it applies to the legislation.

The appellant was not on the call to clarify why they were not able to plan for the hot water tank's replacement and there was no evidence to confirm what repairs were needed, only the appellant's written statement that the cost to replace it would be \$500 to \$800. The panel considers although the appellant did not know the tank would break down when it did, that they were aware the tank was over ten years old. As the appellant has been the homeowner for the past five or six years, it is not unexpected there would be repairs necessary to maintain their home, including replacement of appliances such as a hot water tank. Therefore, in the appellant's circumstance, the panel does not consider replacement of a hot water tank to be an unexpected item or expense and finds the ministry was reasonable to determine that this condition had not been met.

The ministry is satisfied the appellant has demonstrated that a failure to meet the expense or obtain the item will result in imminent danger to health, and the panel agrees, so this condition has been met.

The appellant had been informed that there may be a homeowner grant available to replace the tank, however the appellant did not wish to pursue this. At Reconsideration, the ministry acknowledged that the appellant did not have resources available to them at the time, and the panel agrees, so this condition has been met.

The panel finds that the ministry was reasonable in their decision to deny a crisis supplement for repair or replacement of a hot water tank because not all conditions of section 57 EAPWDR had been met, as is required.

Conclusion

The panel finds that the ministry's decision that the appellant was not eligible for a crisis supplement under section 57 EAPWDR was a reasonable application of the legislation in the circumstances of the appellant. The panel confirms the ministry's decision in accordance with section 24(1)(b) and 24(2)(a) of the Employment and Assistance Act. 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

Janet Ward

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2020 March 30

PRINT NAME

Wendy Marten

SIGNATURE OF MEMBER Authorized to sign by Wendy Marten

DATE (YEAR/MONTH/DAY)

2020 March 30

PRINT NAME

William (Bill) Reid

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020 March 30