

APPEAL NUMBER
2020-00115

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) Reconsideration Decision of March 26, 2020 in which the Ministry determined that the Appellant was ineligible for a crisis supplement for home repairs 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

With the consent of both parties, the hearing was conducted as a written hearing, pursuant to section 22(3)(b) of the Employment and Assistance Act.

The appellant is a sole recipient of disability assistance.

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

- A Request for Reconsideration dated January 29, 2020 in which the appellant included:
 - 12 photos of their home showing the addition's living areas and water damage;
 - A written statement which explained:
 - The appellant felt that the worker was focused on how not to help rather than to seek ways to help;
 - The contractor who initially was contacted (contractor 1) to obtain an estimate for repairs told the appellant that a HazMat test must be done at a cost of approximately \$1,000 because the home was built prior to 1990, even though the appellant explained that the addition had been added in 2005 so this would not be necessary;
 - The appellant thought it inappropriate for the ministry to assess the appellant's situation based on contractor 1's opinion because the contractor is not a roofer nor qualified to discern how the appellant lived in their home;
 - The HazMat specialist that the appellant contacted indicated that an air test would be required at a cost of \$750, which would be done by the contractor;
 - A second abatement company was contacted and the appellant sent them photos of the addition but then the company indicated they were too busy to do the work;
 - The appellant then removed gyprock and insulation themselves, because they did not want the structure to be further destroyed, using their own respirator and wrote that they are no longer seeking funding for help as they are doing the abatement work themselves;
 - The appellant still requires assistance with removing a tree that was the cause of the water damage, replacing the roof of the three-room addition; removing and repairing any structural rotted wood and replacement of insulation, vapour barrier and new gyprock.
- An estimate from contractor 1 dated January 7, 2020, labelled Option 1, for the safe removal of select drywall from walls and ceilings, the treatment of mould in the exposed areas for a sunroom and a storage room, for a total cost of \$3,651.32.
- An estimate from contractor 1 dated January 7, 2020 labelled Option 2 for the safe removal of all walls and ceiling in the storage room, to remove the ceiling and half walls in the sunroom, and the treatment of mould for a total cost of \$4,879.24.
- An undated estimate from contractor 2 for containment to stop the spreading of mould spores, removal and disposal of drywall, mould remediation of framework, complete surface clean of all impacted areas and dehumidifying equipment during the three to four day process for a total cost of \$7,000.

On the Notice of Appeal (NOA) form dated April 14, 2020 the appellant wrote:

- they purchased the home in 2009 and although it is over forty years old, it was renovated in 2004 and the addition was built in 2005 (copy of Building Permit submitted);
- it would cost tens of thousands of dollars to remove the addition and re-side the mobile side;
- roof repair cost is \$6,500 and this is their main concern at this time;
- the addition was built around a tree and this has caused issues for the roof, which the appellant has tried several different ways to ensure the tree did not damage the roof as well as doing regular maintenance, once or twice a year, to remove debris, sealing and check for damages;
- they have a medical condition that limited their ability to go up one year, but other years would regularly check the roof;
- they had a roofer check the roof out as they were concerned about the tree growth potentially damaging the roof and no indication was given there was water damage happening and when they noticed moisture in one of the windows they contacted the roofer to come and give estimates and to check things out but they never came; and
- they had hoped to borrow funds to pay for the tree removal and roof repair however was turned down.

The appellant's written submission included the same statement that was included with the NOA, a copy of 2005 Building Permit and photos showing the current water damage as well as an additional statement that included:

- the ministry originally declined the request for repairs because an employee of a mould abatement company informed the ministry that the home would be better off being demolished, that the office was nothing but a storage room, akin to a crude pallet addition;
- the ministry worker never asked the appellant how the rooms were being used, nor were photos requested, rather, they used the words of a man from a company who had spent a brief time in the home and who may have "an axe to grind";
- the appellant requested documentation from the ministry in regards to the phone conversation between the ministry and the mould abatement company but has not received it;
- an advocate had recommended the appellant enlist another mould abatement company however weeks went by and that company wanted assurances they would have the job so the appellant gave up, not knowing that the advocate had sent in the reconsideration prior to the appellant sending in a document stating they no longer needed abatement help as they were going to do the abatement themselves;
- the appellant has now removed approximately two-thirds of the ceiling and seventy percent of the walls in the sunroom as they had to slow their health degeneration due to stress and to prevent more water damage through delays in getting repairs done;
- the damage to the roof was unexpected because they were not negligent in preventative measures and maintenance and they have spent more time on the roof since moving in to ensure good condition than every ministry worker who has been involved in this reconsideration combined;
- they have answered to the initial reasons of being declined, the justification of the situation being unexpected in need and expense and the ministry has acknowledged in their decision that there is a serious and imminent risk to health as well as acknowledgement they have no resources to pay for repairs; and
- they have submitted photos that show the addition's rooms before water damage and after damage, which demonstrates there was no outward sign of what was going on within.

The ministry's written submission is the reconsideration summary provided in the Record of Ministry Decision.

Admissibility of Additional Information

The panel admitted the appellant's written submission as well as the statement with photos submitted with the NOA in accordance with section 22(4) of the Employment and Assistance Act because the information was reasonably required for a full and fair disclosure of all matters related to the decision under appeal. The ministry did not object to the submissions.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is the reasonableness of the ministry's Reconsideration Decision dated March 26, 2020, wherein the ministry denied the Appellant a crisis supplement for home repairs. 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 that they did regular maintenance on their roof since purchasing it in 2009 and were not aware the roof was leaking to cause water damage inside the home, so it was unexpected to them that it caused damage and needed repairs.

The ministry's position is that home repairs are not unexpected when you own a home, and, because the appellant had not provided any information to determine the age or structural integrity of the addition and roof where the

damage is occurring, they could not determine that the leak and resultant damage was unexpected. The ministry acknowledged that the appellant did not have the resources to pay for repairs and that the condition of the addition was such that there was imminent danger to the appellant's health, however EAPWDR section 57 requires the need be for an unexpected expense and this requirement has not been met.

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.

At Reconsideration the ministry acknowledged the appellant did not have resources available to them at the time, and are satisfied the appellant has demonstrated that a failure to meet the expense or obtain the item will result in imminent danger to their health, and the panel agrees, so these two conditions of EAPWDR section 57 have been met.

The panel notes the appellant initially had submitted estimates for abatement work on the interior of the addition caused by water damage in the roof, however, by the time the reconsideration decision was made the appellant had completed most of this work, but wrote that the roof still needed to be repaired. The appellant indicated the roof repairs would cost approximately \$6,500 however no documentation to this effect was in the appeal record, only estimates for the abatement work.

The ministry decision indicated that, as a homeowner, home repairs are not unexpected and the appellant had not submitted any documentation as to the age or structural integrity of the home to determine whether the roof leak and resultant damage was unexpected. In the NOA the appellant submitted a building permit from 2005, indicating this was when the addition was built and wrote they had purchased the home with addition in 2009. The appellant emphasized they had been diligent in doing regular maintenance on the roof, including wrapping rubber around a problem area involving a tree. The appellant wrote they had a roof-repair person check out their roof and were informed there was some sponginess and mould happening in that area, so the appellant again wrapped more rubber to try to alleviate the problem. The panel notes the appellant was aware there were issues with the roof in one area. The panel finds because the appellant has been the homeowner for the past ten years, and the addition in question was already four or five years old, it is not unexpected there would be repairs necessary to maintain their home, including repairs to the roof, particularly if they were aware there was a problem area. Therefore, in the appellant's circumstance, the panel does not consider home repairs for a roof to be an unexpected item or expense and finds the ministry was reasonable to determine that this condition of EAPWDR section 57 had not been met.

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 May 19

PRINT NAME
Rick Bizarro

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)
2020 May 19

PRINT NAME
Rosalie Turcotte

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)
2020 May 19