

APPEAL NUMBER
2020-00124

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated April 23, 2020, which determined that the appellant was not eligible for a crisis supplement for reimbursement of the cost to replace the fan in their stove, because their request did not meet the criteria set out in section 57 of the Employment and Assistance for Persons with Disabilities Regulation.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Act (EAPWDA) Section 5

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Section 57

PART E – SUMMARY OF FACTS

Relevant Evidence Before the Minister at Reconsideration

Ministry records show:

- The appellant is a single recipient of disability assistance, with monthly disability assistance of \$808.42 (support) and \$375.00 (shelter).
- On February 26, 2020 a third-party administrator contacted the ministry on the appellant's behalf requesting a crisis supplement for home repair stating the fan on the appellant's pellet stove broke and needed replacing right away or they would have no heat during the cold winter months. They have no money and are in debt so their sister replaced the fan for \$675.00.
- The ministry confirmed that the appellant is a co-owner of their property and therefore determined they have a shared responsibility to repair items.
- On March 2, 2020 the ministry denied the appellant's request indicating they were not facing imminent threat to their physical safety as the stove had been repaired by then.
- On March 24, 2020 the ministry asked the appellant what was unexpected about the repair and the expense. The appellant stated it was the rise in cost of the fan. It used to cost \$165.00; however the Canadian company they bought from last time, in 2009, is now closed and they were forced to buy from a US company at a significant increase in cost.
- On March 25, 2020 the ministry denied the appellant's request for the fan again as it was found not to be an unexpected expense. The ministry explained that an increase cost of parts can be expected after 11 years. The ministry noted the appellant replaced a motor in February 2017 and used the same US company to purchase the parts; therefore it was considered not unexpected to have to order parts from the US. As well, the ministry noted the appellant needed to make repairs and replace parts on their pellet stove in the past and there was no evidence to show that the replacement fan was an unexpected expense or that it stopped working unexpectedly. The ministry considered that the price of the fan was the unexpected nature of their request; however the ministry was unable to determine that the fan purchased in 2009 was the same fan that was purchased from a US company in 2020 and that the increase in price was a result of the original company's closure and therefore a requirement to buy from the US. The fan purchased from the US company in January 2020, for \$410.00 (US) has a different description than the one purchased in Canada in 2009 for \$165.00.
- The ministry had indicated the appellant also had not demonstrated they had no resources available to meet their need as their sister already paid for the item. As well, the ministry had determined that the paperwork shows the item belongs to the appellant's sister and the ministry could not assist with a bill that is not in the appellant's name. However, in the reconsideration decision, the ministry stated it was satisfied the appellant has no resources available to repay their sister for the cost of the fan.
- Ministry records show the appellant indicated their physical health and property were in danger if they had waited for the ministry to make a determination regarding the request for funds to purchase the fan; however, the receipts show the appellant purchased the fan in early January and did not request assistance from the ministry for this cost until February 26, 2020. Therefore, the ministry determined that at the time of the request the appellant was no longer facing

imminent danger to their physical health as they were able to meet their need for the replacement fan the month prior. As well, there was no evidence that the appellant faces imminent danger if they do not repay their sister for the fan.

- Ministry records show the appellant also stated the circuit board on their stove broke after the fan was repaired and on March 18, 2020 requested a crisis supplement for home repair for a computer board for their pellet stove. At the time of the reconsideration decision, the ministry had not provided the appellant with a decision on their request for the computer board, but stated that one will be provided.
- This reconsideration decision addressed the cost of the fan only.

Request for Reconsideration (April 1, 2020)

The appellant submits that their life and property would be in jeopardy waiting for the ministry to help. They were left on their own with their sister's help. The heater manufacturer said portable heaters are meant to only supplement a heating system. It was very cold and they were concerned they would burn their house down waiting for the ministry to help with heat. The appellant's sister has demanded the money back. The appellant had no idea the parts for the pellet stove were going to be more than triple in price, so was not prepared to pay so much for parts.

Invoice and Receipt from Heating Company (Canada) (January 19, 2009)

One Fan for Parlour
Total \$184.80

Sales Order (for appellant's sister) (7 January, 2020)

US company
US - fan assembly w/12v Combustion Motor, Combustion Blade, Mounting Plate, Gasket & Instructions.
Parlour & Gnome Pellet – US Pittman Motor R2 S9 - \$410
USPS Priority and Handling Charges - \$35
Total – US \$445

Canada Border Services Agency Import Form (12 January, 2020)

Total Payable - \$73.93

Bank Statement (for appellant's sister) (December 13, 2019 – January 13, 2020)

January 6 (transaction date) US company- \$599.80

Email from Third Party Administrator to ministry (February 26, 2020)

Emergency Home Repairs Crisis Request:

Danger to health/or safety: If the client did not fix the stove motor, they would not have heating in their house during the cold winter months.

Additional Information

Appellant

Notice of Appeal) (April 27, 2020)

The appellant states they submitted their reasons for the Notice of Appeal a month ago to a third-party

administrator.

Submission (May 20, 2020)

The appellant states they did not have help to fix their pellet stove and so had to use their electrical heat, which is expensive to run. They were not expecting the ministry to take months to make a decision to help fix the pellet stove. The appellant states that if it wasn't for the ministry taking so long, they wouldn't have such a large hydro bill.

Ministry

The ministry advised that its submission was the reconsideration summary provided in the Record of Ministry Decision (May 19 and 25, 2020).

The panel determined that the additional information is reasonably required for a full and fair disclosure of all matters related to the decision under appeal and therefore is admissible under section 22(4) of the *Employment and Assistance Act*.

PART F – REASONS FOR PANEL DECISION

The issue on appeal is:

- Whether the ministry's reconsideration decision, that determined the appellant was not eligible for a crisis supplement for reimbursement of the cost to replace the fan in their stove, because their request did not meet all the criteria set out in section 57 of the EAPWDR, was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

Relevant Legislation

Disability assistance and supplements

5 Subject to the regulations, the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it.

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...

Appellant Argument

The appellant argues that their life and property would be in jeopardy waiting for the ministry to help. They were left on their own with their sister's help. The appellant's sister has demanded the money back. The heater manufacturer said portable heaters are meant to only supplement a heating system. It was very cold and the appellant was concerned they would burn their house down waiting for the ministry to help with heat. They had no idea the parts for the pellet stove were going to be more than triple in price so were not prepared to pay so much for parts.

Ministry Argument

The ministry argues that an increase cost of parts can be expected after 11 years. The appellant replaced a motor in February 2017 and used the same US company to purchase the parts; therefore it is not unexpected to have to order parts from the US. As well, the ministry argues the appellant made repairs and replaced parts on their pellet stove in the past, and there was no evidence to show that the replacement fan was an unexpected expense or that it stopped working unexpectedly. As well, the ministry argues the fan purchased in 2009 may not be the same fan that was purchased from a US

company in 2020 and that the increase in price may not be the result of the original company's closure, and therefore a requirement to buy from the US. The fan purchased from the US company in January 2020, for \$410.00 has a different description than the one purchased in Canada in 2009 for \$165.00.

In addition, the ministry argues that although the appellant indicated that their physical health and property were in danger if they had waited for the ministry to make a determination regarding the request for funds to purchase the fan, receipts show the appellant purchased the fan in early January 2020 and did not request assistance from the ministry for this cost until February 26, 2020. Therefore, the ministry argues that at the time of the request the appellant was no longer facing imminent danger to their physical health as they were able to meet their need for the replacement fan the month prior.

Analysis

Section 5 of the EAPWDA states, "the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it."

Ministry records show the appellant is a single recipient of disability assistance, with monthly disability assistance of \$808.42 (support) and \$375.00 (shelter).

Section 57 of the EAPWDR states that, "The minister may provide a crisis supplement to or for a family unit that is eligible for disability assistance...if...a person in the family unit requires the supplement to meet an unexpected expense...and is unable to meet the expense...because there are no resources available to the family unit, and ...the minister considers that failure to meet the expense...will result in imminent danger to the physical health of any person in the family unit..."

Section 57(1)(a) – unexpected expense or obtain an item unexpectedly needed

Ministry records show that on March 24, 2020 the ministry asked the appellant what was unexpected about the expense for their pellet stove fan. The appellant stated it was the rise in cost of the fan. It used to cost \$165.00; however the Canadian company they bought from last time, in 2009, is now closed and they were forced to buy from a US company at a significant increase in cost. Ministry records show the appellant's sister replaced the fan for a cost of \$675.00. The appellant argues they had no idea the parts for the pellet stove were going to be more than triple in price so was not prepared to pay so much for parts.

Ministry records also show the ministry confirmed that the appellant is a co-owner of their property and therefore determined that the appellant has a shared responsibility to repair items. The ministry also argues the appellant made repairs and replaced parts on their pellet stove in the past, and there was no evidence to show that the replacement fan was an unexpected expense or that it stopped working unexpectedly.

As well, the ministry argues that an increase in cost of parts can be expected after 11 years, and as the appellant replaced a motor in February 2017 and used the same US company to purchase the parts, it was not considered unexpected to have to order parts from the US. In addition, the ministry argues the fan purchased in 2009 may not be the same fan that was purchased from a US company in 2020 and that the increase in price may not be the result of the original company's closure, and therefore a requirement to buy from the US; the fan purchased from the US company in January 2020, for \$410.00 has a different description than the one purchased in Canada in 2009 for \$165.00.

The panel finds the ministry's determination that the replacement fan for the appellant's pellet stove was not an unexpected expense, reasonable. The panel finds, as a co-homeowner, home repairs, are considered an ongoing responsibility and therefore not an unexpected expense. In addition, the panel finds replacing a stove fan after 11 years, is also not considered unexpected. As well, an increase in cost is to be expected after this period of time. Although the appellant argues that the difference in cost was unexpected, the panel finds there is insufficient evidence to determine that the appellant had no other choice but to purchase the fan from the US Company.

Section 57(1)(a) – unable to meet expense, no resources

Upon reconsideration, the ministry is satisfied the appellant has no resources available to repay their sister for the cost of the fan replacement on their pellet stove.

Section 57(1)(b)(i) – failure to meet expense will result in imminent danger to physical health

The ministry argues that although the appellant indicated that their physical health and was in danger if they had waited for the ministry to make a determination regarding the request for funds to purchase the fan, receipts show the appellant purchased the fan on January 7, 2020 but did not request assistance from the ministry for this cost until February 26, 2020. Therefore, the ministry argues that at the time of the request the appellant was no longer facing imminent danger to their physical health as they were able to meet their need for the replacement fan the month prior.

The appellant argues that their life and property would be in jeopardy waiting for the ministry to help. They argue that the heater manufacturer said portable heaters are meant to only supplement a heating system. It was very cold and they were concerned they would burn their house down waiting for the ministry to help with heat.

Although the appellant argues the heater manufacturer said portable heaters are meant to only supplement a heating system and although they were concerned they would burn down their house, the panel finds this argument insufficient to demonstrate that using the portable heaters will result in imminent danger to the appellant's physical health.

In addition, the panel notes the sales order shows the fan was purchased on January 7, 2020, and ministry records show the request for a crisis supplement for home repair was received on February 26, 2020. As the fan was purchased approximately seven weeks before the request for the crisis supplement was made, the panel finds the delay does not support the argument that there was imminent physical danger to the appellant's health.

Therefore, the panel finds the ministry's determination that the appellant did not demonstrate that failure to meet the expense would result in imminent danger to their physical health, reasonable.

Conclusion

The panel acknowledges the difficulties the appellant faces. However, the panel finds the ministry's reconsideration decision which determined the appellant was not eligible for a crisis supplement for reimbursement of the cost to replace the fan in their stove because their request did not meet all the criteria set out in section 57 of the EAPWDR, was a reasonable application of the legislation in the circumstances of the appellant.

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

Connie Simonsen

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2020/06/09

PRINT NAME

David Handelman

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/06/09

PRINT NAME

Vivienne Chin

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/06/09