

APPEAL NUMBER
2020-00131

PART C – DECISION UNDER APPEAL

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Poverty Reduction (the “Ministry”), dated April 7, 2020 (the “Reconsideration Decision”), which denied the Appellant a crisis supplement, pursuant to section 57 of *Employment and Assistance for Persons with Disabilities Regulation* (“EAPWDR”), for overdue strata fees because the Appellant had not satisfied the Ministry that the strata fees were an unexpected expense and that failure to obtain a crisis supplement would result in imminent danger to the Appellant’s health.

PART D – RELEVANT LEGISLATION

Section 57, EAPWDR

PART E – SUMMARY OF FACTS

The Appellant is a single recipient of disability assistance.

The information before the Ministry at the time of the Reconsideration Decision included the following:

- the Appellant's Request for Reconsideration ("RFR"), which:
 - included a letter from the Appellant's strata (the "Strata Letter"), detailing the overdue strata fees and mentioning that legal action may need to be taken against the Appellant in respect of the overdue strata fees which were \$1,422.55 as of the date of the Letter;
 - set out that the balance owing to the strata was "out of control" and that the Appellant could not keep up by back pay as the Appellant's income was not high.

In the Appellant's Notice of Appeal, the Appellant noted that the funds for the overdue strata fees were desperately needed due to other payments coming up and the Appellant getting behind on the strata fees.

Before the hearing of the appeal, the Appellant also provided a 9 page submission (the "Submission"), which included:

- a letter, dated August 19, 2020 from the Appellant's Strata (the "Second Strata Letter"), in which the strata updated the outstanding balance of the Appellant's unpaid strata fees to \$1,612.31 and clarified that the legal action that the strata was entitled to take was the registration of a lien under the *Strata Property Act* to enforce unpaid strata fees;
- part of a pamphlet, including reference to a price of \$648.99, for dishwasher which, the Appellant advised at the hearing, had been purchased to replace the dishwasher at the Appellant's townhouse;
- a receipt in the amount of \$388.02 which, the Appellant advised at the hearing, was for the installation of a new dishwasher;
- a sales description for a refrigerator, which, the Appellant advised at the hearing, had been purchased for \$999.99 to replace the Appellant's old refrigerator;
- a receipt for a new furnace, including installation, in the amount of \$5,801.25; and
- part of a receipt, which the Appellant advised at the hearing, was from Home Depot for the replacement cost of a new oven (\$748.56).

At the hearing, the Appellant described being in "dire straits" and never having had to ask for help before. The Appellant described having nowhere else to turn, due to the Appellant's mother being elderly and living on a pension income. The Appellant's sister is also unable to assist.

The Appellant described the replacement of the stove and dishwasher as unexpected expenses. The Appellant's old stove was a fire hazard and the dishwasher was almost 30 years old and was a flooding hazard. The appellant's refrigerator was also making unusual noises and required replacing. The financial burden of having to replace the stove, dishwasher, and refrigerator was compounded in 2019 when the Appellant's furnace died and also needed replacing in 2019. The result of these expenses was that the Appellant fell behind in the payment of strata fees. The Appellant confirmed that the dishwasher and new stove were paid in full but payments were still being made in respect of the refrigerator and the furnace. The Appellant advised that a search for part-time work had not produced any results in the current economic climate.

The Appellant advised that the strata has advised that they can file a lien against the Appellant's townhouse, pursuant to the *Strata Property Act* ("SPA"). However, the Appellant confirmed that the strata council had not threatened to seek an order for sale and that it was the Appellant's understanding that the strata council could not force a sale of the townhouse.

At the hearing of the appeal, the Ministry relied on the Reconsideration and pointed out that the Appellant has no mortgage and only has to pay strata fees. The Ministry also submitted that the strata fees need to be paid each month and are not unexpected expenses. The Ministry stated that a lien under the SPA would not, at least for the time being, pose a risk that the Appellant could be left homeless by virtue of not paying strata fees. In the result, the Ministry submitted that there was no imminent danger to the Appellant's physical health in the event that the strata fees were not paid.

The panel finds that the evidence given at the hearing and the Submission is reasonably required for a full and fair disclosure of all matters related to the Reconsideration Decision and admits both under section 22(4) of the *Employment and Assistance Act*.

PART F – REASONS FOR PANEL DECISION

The issue in this appeal is whether the Ministry reasonably determined that the Appellant was not eligible for a crisis supplement in respect of overdue strata fees because the Appellant had not satisfied the Ministry that the strata fees were an unexpected expense and that failure to obtain a crisis supplement would result in imminent danger to the Appellant's health.

Applicable Legislation

The Ministry may issue a crisis supplement to a recipient of disability assistance who satisfies the criteria set out in section 57 of the 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*.

(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 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) 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.

[am. B.C. Regs. 13/2003; 248/2018, App. 2; 270/2019, App. 2, s. 14.]

Panel Decision

A recipient of disability assistance may be eligible for a crisis supplement if:

- 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
- the minister considers that failure to meet the expense or obtain the item will result in
 - imminent danger to the physical health of any person in the family unit, or
 - removal of a child under the *Child, Family and Community Service Act*.

The Ministry held that the Appellant had not demonstrated that the strata fees were an unexpected expense as they are paid monthly and were not new. The evidence before the Ministry, as set out in the Strata Letter, was that the Appellant was \$370.48 in arrears at the start of 2019, made all but three strata payments in 2019 (April and July) and missed paying strata fees from January to March in 2020. The Appellant was clearly aware that strata fees were a recurring monthly expense. Likewise, the Appellant's evidence was that the dishwasher, oven, refrigerator, and furnace were fairly old having been in the Appellant's residence for almost 30 years. It should not have been unexpected that they would need to be replaced. The Reconsideration Decision did not address the matter of whether or not the Appellant had other available resources to assist with the payment of the strata fees. The Appellant's evidence at the hearing about the limited resources of the Appellant's mother and sister, however, tends to suggest that the Appellant did not have other resources available that could have assisted with the payment of the strata fees. Subsection (a) of section 57(1) of the EAPWDR requires both criteria to be met, however, and the panel finds that the Ministry reasonably determined that the Appellant had not demonstrated that

a supplement was needed to meet an unexpected expense or obtain an item unexpectedly *and* that there were no alternative resources available.

Subsection (b) of section 57(1) of the EAPWDR requires a recipient to show that failure to receive the requested supplement will lead to imminent danger to his or her physical health or the removal of a child under the *Child, Family and Community Service Act*. In this regard, the Strata Letter and the Second Strata Letter both refer to the strata council taking legal steps in respect of the overdue fees. The Second Strata Letter refers specifically to the potential for filing a strata lien. However, there was no indication from the Appellant's evidence that the strata council intended to take further action imminently. In view of this, it is difficult for the panel to see how the Appellant's physical health would be in imminent danger if the Ministry failed to issue a crisis supplement. The panel finds that the Ministry was reasonable in its finding that the Appellant had failed to meet the criteria set out in section 57(1)(b) of the EAPWDR.

In view of the above, the panel finds that the Reconsideration Decision was a reasonable application of section 57 of the EAPWDR and was reasonably supported by the evidence before the Ministry. The Appellant is not successful in the 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

Adam Shee

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2020/08/25

PRINT NAME

Helene Walford

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/08/26

PRINT NAME

Sarah Bijl

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/08/20