

APPEAL NUMBER
2020-00244

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated Oct 14, 2020, which held that the appellant was not eligible for a crisis supplement for the repair of a window in the appellant's personal residence.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons With Disabilities Act (EAPWDA) section 5
Employment and Assistance for Persons With Disability Regulation (EAPWDR) section 57

PART E – SUMMARY OF FACTS

The evidence before the ministry at the time of reconsideration consisted of the following:

1. The appellant is a sole recipient of disability assistance;
2. The appellant is the owner of their personal residence;
3. At a date prior to September 2, 2020 the glass pane in the window of the appellant's residence fell out of the wooden frame because the wooden frame was rotten;
4. The appellant had an estimate from a carpenter that the cost of repairing the window would be approximately \$1,600.00;
5. The appellant had no friends or family that could assist;
6. The appellant had received \$300.00 per month in COVID-19 benefits from April to the date of the application;
7. There was a bear the area that the appellant had seen on the deck of the residence; and
8. The appellant had no source of income other than disability assistance and the COVID-19 benefit.

PART F – REASONS FOR PANEL DECISION

The issue at appeal is whether the ministry's decision that the appellant was not eligible for a crisis supplement to meet an unexpected expense was reasonably supported by the evidence or a reasonable application of the enactment in the appellant's circumstance.

The Relevant Legislation

EAPWDA, section 5 authorizes the minister to provide disability assistance or a supplement to a family unit that is eligible for a supplement under the regulations.

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.

The relevant regulation to this appeal is EAPWDR section 57 that authorizes the minister to provide a crisis supplement to meet an unexpected expense if the family unit has no available resources and the failure to meet the expense will result in imminent danger to the physical health of any person in the family unit.

EAPWDR

Crises 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*.

There are monetary limits for the amount of a crisis supplement that can be provided for food, shelter or clothing prescribed in the EAPWDR. There is no prescribed limit to the amount of a crisis supplement that can be provided for home repairs.

The Appellant's Position

The appellant provided a submission on appeal which the panel admitted as argument in support of the information before the minister on reconsideration.

The appellant appropriately highlighted that the ministry found that there were no resources available to the appellant to meet the expense of repairing the window and that the ministry also determined that the failure to meet that expense would result in imminent danger to the appellant's physical health.

Consequently, the appellant submitted that the only issue on appeal was whether the expense of repairing the window as an unexpected expense.

The appellant stated that one day, they could not remember the specific date, they returned to the residence they noticed that the pane of glass had fallen out of the wooden frame in a large window. The appellant stated that they knew there was rot in the frame of the window but that they did not expect that it would cause the glass to fall out. The appellant stated that prior to the window falling out there was no professional assessment done of the window. The appellant submitted that it was unreasonable for the ministry to determine that they should have expected the

expense of requiring repair of the window because knowing there was rot did not mean that she knew or ought to have known that the rot would result in the requirement to repair the window.

The appellant also stated that the ministry had to apply the EAPWDR in consideration of the appellant's particular circumstances. The appellant states that she was a low income person, that she does her best to maintain her home within her budget, that she has no special knowledge of structural integrity of her home and that she did not expect the glass to fall out of the window frame despite having a general awareness that rot existed in the home.

The appellant could not recall when they first noticed rot in the window and they stated that there was also rot in a deck, that some stairs had collapsed and that there were problems with the roof.

The Ministry's Position

On the appeal, the ministry relied on the reconsideration decision.

The minister has developed guidelines for a crisis supplement for home repairs. Those guidelines state that the requirements for a crisis supplement under section 57 of the EAPWDR must be met. If those requirements are met the ministry may provide a crisis supplement for the protection, replacement and repair of the physical structure of the recipient's home and the repair or replacement of home heating and cooking appliances provided that the residence is owned by a person in the family unit, the repairs are the least costly appropriate option and the cost of the repairs are pre-approved by the ministry.

The ministry stated that the cost to repair the window was not unexpected because the appellant knew there was rot in the wood and that the appellant did not repair the wood. The ministry stated that it was not satisfied that the window repair was an unexpected expense.

The ministry was satisfied that the appellant did not have resources available to repair the window.

The ministry was satisfied that the failure to repair the window would result in imminent danger to the appellant's physical health.

The Panel's Decision

The panel is satisfied that the appellant did not anticipate that a pane of glass would fall out of the wooden window frame on the date that the incident occurred.

However, the panel has determined that the core issue on appeal is if the term "unexpected expense" in EAPWDR section 57 means an expense that was unexpected by the appellant (a subjective determination) or whether it would be unexpected by a reasonable person in the situation of the appellant (an objective determination). In particular, whether the EAPWDR permits the ministry to provide a crisis supplement in a situation where an expense is inevitable, but the specific date of the expense is unknown.

The panel has considered the crisis supplement provisions of the EAPWDR in the entire context of the regulation. The panel has determined that a crisis supplement is intended to be of limited duration (a single month pursuant to section 57(2)) and of a modest amount (maximum of \$40.00 per person for food, \$100.00 per person for food, and a limited amount for shelter). The panel does not consider that the intent of the crisis supplement provisions is to provide a supplement to a family unit when, as a result of deferred maintenance, an expense is incurred. If the term "unexpected expense" was provided that broad of an interpretation then section 57 would be a supplement for the repair and maintenance of a premises provided that the family unit was prepared to wait until the premises had degraded to a state where there was an imminent danger to physical health. The panel is not satisfied that the legislative intent was to provide an incentive for a family unit to permit the development of an imminent danger to the physical health of a person in the family unit to qualify for a supplement.

In the specific context of this appeal, the panel is not satisfied that the fact that the appellant did not know when the

pane of glass would fall out of the window satisfies the requirement for the window repair to be an unexpected expense as that term is used in section 57 of the EAPWDR.

Conclusion

The panel finds that the appellant is not eligible for a crisis supplement for the cost of repairing a window because the cost of the repairing the window was not an unexpected expense as that term is used in section 57 of the EAPWDR.

Therefore, the ministry's decision that the appellant was not eligible for a crisis supplement was a reasonable application of the enactment in the appellant's circumstance.

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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
Trevor Morley

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)
2020/11/19

PRINT NAME
Kevin Ash

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)
2020/11/20

PRINT NAME
Dawn Martin

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)
2020/11/20