

### **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 December 29, 2020, which held that the appellant did not meet 1 of the 3 eligibility requirements for a crisis supplement as set out in section 59(1) of the Employment and Assistance Regulation (EAR). The ministry found that the appellant had no resources available to pay December rent. The ministry also found that the appellant would be facing eviction if the December rent remains unpaid and this would constitute an imminent danger to physical safety.

However, the ministry was not satisfied that the reported bank withdrawals were an unexpected expense; the ministry determined that it has not been established that these withdrawals were the result of fraud.

### **PART D – RELEVANT LEGISLATION**

EAR section 59

## PART E – SUMMARY OF FACTS

The information before the ministry at reconsideration included the following:

- The appellant is a sole recipient of income assistance with one dependent child on file. The file opened on September 26, 2019.
- On November 24, 2020 the appellant requested a crisis supplement to pay December rent. The appellant explained that someone fraudulently stole the appellant's banking information and withdrew \$263 and then \$1200 from the account. The appellant had unpaid bills to deal with and did not have any resources available either in the bank or on hand to pay rent.
- On November 25, 2020 the appellant submitted the police file number and the name of the constable, and the bank record.
- A ministry worker attempted to contact the appellant by phone to request a bank statement in addition to the record and for clarification on the alleged fraud situation that led to the bank details being stolen and if the bank would reimburse funds if they were fraudulently stolen.
- The appellant contacted the ministry on December 4, 2020 and explained the bank would not reimburse funds taken from the account.
- The appellant submitted a November bank statement showing \$263 withdrawn from the account on November 19 and \$1200 withdrawn on November 20.
- On December 9, 2020 the appellant explained to the ministry over the phone that during the withdrawal process at an ATM in a convenience store someone was probably standing behind the appellant and watched as the PIN was entered. This person then allegedly removed the wallet from the appellant's purse as the appellant left the store and later on used the card to make fraudulent withdrawals from the appellant's account.
- A "Customer Service Request Commitment" form from the appellant's bank states:

Service Request Type:	Investigations-Tracing
Service Request Type:	Investigations-Unauthorized Transactions/Suspected Fraud
Created Date:	24/Nov/2020
Committed Response Date	08/Dec/2020
Amount:	\$263.00
Reason for Request:	Adjustment details required
Additional Comments:	1200.00 20nov2020 Legal Form Completed
- In the request for reconsideration the appellant wrote that they were able to borrow a small amount; however, a supplement of approximately \$740 is required from the ministry so that the \$800 December rent can be paid in full.

The panel accepted the appellant's Notice of Appeal dated January 4, 2021 as argument.

The ministry relied on the reconsideration decision.

## PART F – REASONS FOR PANEL DECISION

The issue in this appeal is whether the ministry's decision to deny the appellant a crisis supplement for December rent was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. That is, was the ministry reasonable when it determined that it has not been established that these withdrawals were an unexpected expense due to fraud.

### **Panel Decision**

Section 59(1) sets out 3 criteria all of which the appellant must meet before the ministry may provide a crisis supplement:

- 1. the appellant requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed;
- 2. there are no resources available to the appellant;
- 3. failure to obtain the crisis supplement will result in imminent danger to the physical health of the appellant.

The ministry found that the appellant has met criterion 2 and 3, but not criterion 1. That is why the panel's discussion is limited to criterion 1 - whether there is sufficient evidence of fraud resulting in an unexpected expense.

The appellant's position is that someone fraudulently stole banking information and withdrew \$263 and then \$1200 from the appellant's account. This was an unexpected expense and as a result the appellant is not able to pay most of the December rent.

The ministry's position is that it has not been established that the reported withdrawals were an unexpected expense due to fraud. The appellant's service request from the bank indicated a decision was expected to be made by December 8. No information from the bank regarding this decision was included with the appellant's December 11 request for reconsideration, so it is unclear how the bank has resolved the issue.

The panel finds there is not sufficient evidence of an unexpected expense caused by fraud: the appellant requested the bank conduct investigations into unauthorized transactions/suspected fraud but did not provide any information on the outcome of these investigations. While the appellant provided a police file number and the name of a constable there is no information forthcoming on the status of a police investigation.

Based on the above analysis the panel finds the ministry was reasonable when it found that it could not be established that the appellant faced an unexpected expense due to fraud.

### **Conclusion:**

The panel finds that the ministry's decision to deny the appellant a crisis supplement for December rent was reasonably supported by the evidence and a reasonable application of the legislation in the appellant's circumstances. The ministry's reconsideration decision is confirmed and the appellant is not successful on appeal.

### **Relevant Legislation**

#### **Crisis supplement**

**59** (1)The minister may provide a crisis supplement to or for a family unit that is eligible for income 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

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2021-00001

**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) ☒ and Section 24(1)(b) ☒

and

Section 24(2)(a) ☒ or Section 24(2)(b) ☐

**PART H—SIGNATURES**

PRINTNAME

Inge Morrissey

SIGNATURE OF CHAIR

DATE(YEAR/MONTH/DAY)

2021/02/03

PRINTNAME

Glenn Prior

SIGNATURE OF MEMBER

DATE(YEAR/MONTH/DAY)

2021/02/03

PRINTNAME

Angie Blake

SIGNATURE OF MEMBER

DATE(YEAR/MONTH/DAY)

2021/02/03