

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated January 6, 2021, which denied the appellant's request for a crisis supplement to cover the cost of import charges on packages (\$3,000). The ministry found that all of the requirements of Section 57 of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR) were not met as the ministry found there was insufficient evidence that:

- the cost of import charges on packages was an unexpected expense or an item unexpectedly needed; and,
- 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 Services Act*.

PART D – RELEVANT LEGISLATION

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

PART E – SUMMARY OF FACTS

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

- 1) Ministry monthly report form indicating the next cheque issue for the appellant on December 16, 2020 for total assistance of \$1,518.42 with a shelter portion of \$375 and deduction of \$20 for a net total cheque of \$1,498.42;
- 2) Fax dated December 21, 2020 to a local office of the ministry in which the appellant wrote that:
 - The adjusted amount of the appellant's cheque stub next month is \$1,498.42 and the appellant urgently requires \$2,000;
 - The December 16, 2020 cheque indicated that the appellant would receive \$1,498.42 and the appellant received \$1,463.42. The appellant does not know why \$35 was taken out. The appellant requests that the amount is adjusted on January 20, 2021 plus the lost amount of \$35 be added to the next year cheque issue date;
 - During the Christmas season the appellant's money was spent fast and the appellant does not have much money. The appellant requests \$2,000 for the Christmas time and needs it urgently; and,
- 3) Request for Reconsideration dated October 9, 2020 in which the appellant wrote:
 - The first response was refused and "that's complete payment" does not need to be released to the appellant. October 5, 2020 to October 9, 2020 released to the appellant just \$3,900 on first response.
 - The reason given to the appellant was "I may."
 - The appellant has been staying in a specified location and is currently at a different address. The appellant can hear and confirm what is happening to the appellant every day. The appellant needs release of a payment for getting private living and settlement life in Canada.
 - The landlord's agent is against the appellant and has been trying to move the appellant out. During the appellant's renting time (April 2014 to 2019), the landlord's agent said to the Residential Tenancy Branch (RTB) dispute hearing court that he bought the appellant's unit at that address (hotel).
 - The appellant found a signed paper/ evidence that the residence is in the name of a female.
 - The appellant also found out that the "RTB has [the appellant's] payment by followed past long time the last time on hearing." The person at the RTB refused and said to the appellant that "she was not the person give [the appellant] money that she knew and mentioned [the appellant] again."
 - The appellant has a released payment at the airport and the contractor asked the appellant to pay the charge "for inspiration \$300." The appellant does not have the money to get this consignment too because the appellant does not have a job yet.
 - The appellant cannot get the delivery of the package in Canada. The UN Secretary decided to pick the appellant up for an appointment and sent the appellant an ATM card "but not use public matter."
 - Canada Post is trying to collect any funds and package by checking on the appellant on mobile phone and computer and the appellant does not know how

they stop the appellant from doing something on the phone and computer.

- There are many reasons. It is hard to stay on someone's property and to be watched by someone the appellant does not know. They are trying any ways to hurt the appellant's feelings and spirit.

Additional information

In the appellant's Notice of Appeal dated January 17, 2021 the appellant expressed disagreement with the ministry's reconsideration decision and wrote that:

- Coming in favours and asked the appellant to pay back their money, \$10 million.
- (The ministry) is coming around the appellant as the client.
- The ministry did not follow the step filling in the form, they asked the appellant to fill in the form first.
- They denied toward the appellant's health, which is not very comfortable, a lot of pain and injured body conditions.
- They did not give the appellant any money yet- \$10 million, \$3,000, \$2,000, \$10,000.

Prior to the hearing, the appellant provided the following documents in a written submission:

- 1) Copy of ministry cheque dated January 20, 2021 payable to the appellant in the sum of \$923.42;
- 2) Written statement dated January 28, 2021 in which the appellant wrote that:
 - The total allowance on February 17, 2021 should be: \$923.42 received/issued real cheque amount on January 20, 2021 + \$20 deposit for rent deducted from allowance + \$390 monthly rent deducted from allowance + \$52 (x 7= \$364) monthly bus pass deducted from allowance + \$300 COVID-19 benefit monthly deducted from allowance = \$1,685.42 total allowance cheque.
 - Cheque amount is \$1,275.42 after deducting \$20 rent deposit and \$390 rent monthly paid ministry.
- 3) Written statement dated January 28, 2021 in which the appellant wrote that:
 - The appellant called the ministry and they explained about the allowance amount. The appellant does not trust what the ministry said to the appellant with the advocate. The appellant does not believe that the ministry cut off \$150 for the COVID-19 [benefit] from the appellant's allowance and wonders why the ministry did not cut \$300. Also, at this time people are still sick, in hospital and dead.
 - In the past 2020 year and before, years ago, it happened 3 to 4 times where they changed the appellant's allowance.
 - In January 2021 the ministry adjusted the appellant's allowance again and the appellant has to ask the ministry to change it back to the original allowance amount.
 - The appellant needs steady growth income. The appellant wants the ministry to not change and control the allowance amount any time they want.
- 4) Written statement dated January 28, 2021 in which the appellant wrote that:
 - The ministry wrote information to the appellant and the appellant is now providing evidence and material.
 - The appellant is not sure the ministry had the appellant's information before them.
 - It is the appellant's word. How would the ministry say "coming in/on their favour [?]"

I'll pay back their money (\$10 million about)." If it is coming in/on the appellant's own favour then the appellant does not need to pay it back then. That was the decision that denied the appellant this payment.

- The appellant needs to find real or true reasons why and how the payment was denied and why and how the appellant gets the money in the appellant's hand.
 - [The ministry] did "not really respect make payment to me, the result/ fact was coming around, that's not the way to releasing my payment, that's was sexual harassment around by their written the 'reconsideration form,' who is writer?"
 - The appellant found out another denial reason is "count" the payment of \$10 million by asking the appellant about private information, such as how long the appellant has been receiving income assistance. That is one reason for deduction from this \$10 million. The \$10 million is calculated by the appellant's assistance since the appellant was eligible to receive it- from \$600, \$800 to now up to \$1,518.42 on December 16, 2020. They try the opposite to force deductions to reduce the appellant's allowance by changing it on January 20, 2021 to \$923.42.
 - They cut COVID-19 benefit \$300 to \$150 and the appellant is still taking legal advocate, asking the ministry to release \$300 or \$150 plus 7 months bus fare (\$52 x 7= \$364) deducted on 2020 until the end of this year. The appellant's bus fare is \$45 per year and the appellant does not need to pay as it is free for the appellant in B.C.
 - The appellant believed from the information on the monthly report that the appellant had money from this government agent with the title of the ministry and the appellant believed the appellant's funds/money had not been released by this government agent.
 - The appellant is searching for an eye witness of the proof of the appellant's payments, including the requested \$10 million.
 - The appellant released information about a branch manager who can control as much money as \$10 million.
 - The ministry told the appellant that they can provide bottled drinking water if the appellant requests it.
 - The ministry supervisor said they may consider a supplement for \$2,000 but they denied this amount and the appellant does not know how they denied it.
 - The appellant has reasons to request \$10,000 as the appellant needs money at this time and conditions and the appellant's health problems.
 - The ministry said the appellant's third request for \$10,000 had been cancelled.
 - The appellant needs the \$10 million for living private and for property settlement. The appellant is waiting for release of the appellant's payment as soon as possible. The appellant requests release of the appellant's arranged payment of \$10 million with profit of \$10,000 as updated again, and requests this be considered as an urgent matter.
- 5) Ministry monthly report form indicating the next cheque issue for the appellant on February 17, 2021 for total assistance of \$1,333.42 with a shelter portion of \$375 and deduction of \$410 for a net total cheque of \$923.42.

The ministry relied on its reconsideration decision as the ministry's submission on the appeal.

Procedural matters

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*.

Although the ministry written submission was received by the Tribunal after the deadline of February 12, 2021, the panel accepted the ministry's submission for the following reasons:

- 1) the submission was late for reasons beyond the ministry's control since the Tribunal's letter requesting the submission be provided by February 12 was not received by the appropriate branch of the ministry until February 16;
- 2) there is no additional evidence in the ministry's submission as the ministry relies on the reconsideration decision in the ministry record as the submission, and,
- 3) while refusal of the late submission would permit an adequate hearing to be held and the ministry's interest would not be prejudiced since the panel will consider the reconsideration decision in any event, accepting the late submission will not cause unreasonable delay or prejudice to the appellant since the reconsideration decision has been previously provided to the appellant and there are no additional materials for the appellant to review or to address.

Admissibility of Additional Information

In its written submission, the ministry did not object to the admissibility of the additional documents submitted by the appellant. The panel admitted the appellant's listed additional documents as relating primarily to the ministry's denial of a crisis supplement to cover the cost of import charges on packages (\$3,000) and, therefore, as being reasonably required for a full and fair disclosure of all matters related to the decision under appeal pursuant to Section 22(4) of the *Employment and Assistance Act*.

PART F – REASONS FOR PANEL DECISION

The issue on the appeal is whether the ministry's decision, which denied the appellant's request for a crisis supplement to cover the cost of import charges on packages because all of the requirements of Section 57 of the EAPWDR were not met, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the appellant's circumstances.

Section 57(1) of the EAPWDR sets out the eligibility requirements for providing the crisis supplement, as follows:

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*.

In the appellant's Notice of Appeal, the appellant expressed disagreement with the ministry's reconsideration decision and wrote that the ministry has not given the appellant any money yet-\$10 million, \$3,000, \$2,000, \$10,000. In the Fax dated December 21, 2020 to a local office of the ministry, the appellant wrote that the appellant urgently requires \$2,000 since during the Christmas season the appellant's money was spent fast and the appellant does not have much money and needs \$2,000 urgently. In the written statements dated January 28, 2021, the appellant wrote that the request for \$10,000 was cancelled and the appellant did not ask why. The appellant wrote that the appellant had reasons to request \$10,000 as the appellant needed money at that time and conditions and the appellant's health problems. The appellant also wrote that the appellant needs the \$10 million for living private and for property settlement. The appellant wrote that the appellant requests release of the appellant's arranged payment of \$10 million with profit of \$10,000 as updated again, and requests this be considered as an urgent matter.

Although the appellant raises requests for the amounts of \$2,000 for funds during the Christmas season and \$10,000 for the appellant's current conditions and health problems, and \$10 million for living private and for property settlement, these requests were not addressed in the ministry's reconsideration decision. In the written statement dated January 28, 2021, the appellant wrote that the ministry did "not really respect make payment to me, the result/ fact was

coming around, that's not the way to releasing my payment, that's was sexual harassment around by their written the 'reconsideration form,' who is writer?", and the issue of 'sexual harassment' or bias was not addressed in the ministry's reconsideration decision.

Section 24 of the *Employment and Assistance Act* gives the panel the jurisdiction to determine whether the ministry reconsideration decision is reasonably supported by the evidence or a reasonable application of the legislation in the appellant's circumstances. Although the appellant would like the panel to make a decision on these other issues and requests, the panel does not have the ability to make a decision regarding requests where the ministry has not yet made a decision, or that are possibly the subject of other reconsideration decisions by the ministry. Section 19.1(f) of the *Employment and Assistance Act* applies Section 46.3 of the *Administrative Tribunals Act* to the Tribunal so that the panel also does not have the jurisdiction to apply the Human Rights Code.

Crisis Supplement- Section 57 of the EAPWDR

Section 57 of the EAPWDR allows for the ministry to provide a crisis supplement when all of the legislative criteria are met, specifically that the supplement is required to obtain an item unexpectedly needed or for an unexpected expense, the family unit has no resources available to meet the expense or obtain the item, and failure to obtain the item will result in imminent danger to the physical health of any person in the family unit or the removal of a child under the *Child, Family and Community Service Act (CFCSA)*.

Ministry's position- Unexpected Expense

In the reconsideration decision, the ministry found that there was insufficient evidence to establish that the need for a supplement to cover the cost of import charges on packages (\$3,000) was an unexpected expense for the appellant. The ministry also wrote that the appellant requested a loan for \$3,000 to pay for import charges on packages so they could be delivered to the appellant, and there is no provision under the EAPWDA or the EAPWDR that provides for loans to be advanced by the ministry.

Appellant's position- Unexpected Expense

In the Request for Reconsideration, the appellant wrote that the appellant has a released payment at the airport and the contractor asked the appellant to pay the charge "for inspiration \$300." The appellant wrote that the appellant does not have the money to get this consignment too because the appellant does not have a job yet. The appellant wrote that the appellant cannot get delivery of the package in Canada.

Panel decision- Unexpected Expense

The ministry wrote in the reconsideration decision that the appellant made a request on September 25, 2020 for a loan for \$3,000 to pay import charges on packages. In the Request for Reconsideration dated October 9, 2020, the appellant referred to a charge of \$300

requested by a contractor to get delivery of a package. The appellant does not provide information about whether this package or other packages were items specifically ordered by the appellant and whether the appellant was previously advised of applicable import charges to accept delivery, or any of the other circumstances relating to these packages. With an absence of additional information to explain the background to these packages arriving in Canada, the panel finds that the ministry reasonably determined that there was insufficient evidence to establish that the cost of the import charges on packages (\$3,000) was an unexpected expense or an item unexpectedly needed under Section 57(1) of the EAPWDR.

Ministry's position- No Resources Available

In the reconsideration decision, the ministry found that the requirement in Section 57(1) of the EAPWDR that the appellant has no resources to cover the cost of import charges on packages (\$3,000) had been met.

Appellant's position- No Resources Available

In the written statements dated January 28, 2021, the appellant wrote that the appellant wants the ministry to not change and control the allowance amount any time they want. In the Fax dated December 21, 2020, the appellant wrote that the December 16, 2020 cheque indicated that the appellant would receive \$1,498.42 and the appellant received \$1,463.42. The appellant provided a copy of the ministry monthly report dated December 16, 2020 indicating a cheque amount of \$1,498.42. The appellant does not know why \$35 was taken out and the appellant requested that the amount be adjusted on January 20, 2021 plus the lost amount of \$35 be added to the next year cheque issue date. In the written statements dated January 28, 2021, the appellant wrote that the total allowance on February 17, 2021 should be: \$923.42 received/issued real cheque amount on January 20, 2021 + \$20 deposit for rent deducted from allowance + \$390 monthly rent deducted from allowance + \$52 (x 7= \$364) monthly bus pass deducted from allowance + \$300 COVID-19 benefit monthly deducted from allowance = \$1,685.42 total allowance cheque, and the cheque amount is \$1,275.42 after deducting \$20 rent deposit and \$390 rent monthly paid ministry. The appellant provided a copy of the ministry monthly report dated February 17, 2021 indicating a cheque amount of \$923.42.

Panel Decision- No Resources Available

The appellant provided information to the panel to show that the assistance amounts for December 2020 and February 2021 were less than the amounts that the appellant expected to receive. As the appellant made the request for a supplement to cover the cost of import charges on packages (\$3,000) in September 2020, the ministry considered the appellant's circumstances at that time and acknowledged in the reconsideration decision that there were no resources available to the family unit to meet the expense or obtain the item. As previously discussed, the panel only has jurisdiction to consider the reasonableness of the ministry's decision relating to the request made by the appellant and cannot make a decision regarding

issues where the ministry has not conducted a review and has not made a decision. The panel finds that the ministry reasonably concluded that the appellant did not have the resources available to cover the cost of the import charges on packages (\$3,000) and the appellant's request had met this requirement in Section 57(1) of the EAPWDR.

Ministry's position- Imminent danger to physical health or removal of a child

In the reconsideration decision, the ministry found that there was insufficient evidence to establish that the failure to cover the cost of import charges on packages (\$3,000) will result in imminent danger to the physical health of any person in the family unit. The ministry also wrote that the appellant is a sole recipient with Persons with Disabilities (PWD) designation.

Appellant's position- Imminent danger to physical health or removal of a child

In the written statements dated January 28, 2021, the appellant wrote that the appellant had reasons to request \$10,000 as the appellant needed money at that time and conditions and the appellant's health problems.

Panel's decision- Imminent danger to physical health or removal of a child

Section 57(1) of the EAPWDR requires that the ministry consider that failure to meet the expense or obtain the item will result in either imminent danger to the physical health of any person in the family unit, or the removal of a child under the *Child, Family and Community Service Act*. As the appellant did not dispute that the appellant is a sole recipient of disability assistance with no dependent children, the panel finds that the ministry was reasonable to conclude that the removal of a child under the *Child, Family and Community Service Act* did not apply to the appellant.

While the appellant wrote in the written statements dated January 28, 2021 that the appellant had reasons to request \$10,000 as the appellant needed money at that time and conditions and the appellant's health problems, the panel does not have the jurisdiction to consider this request, as previously discussed. The appellant's request for \$10,000 and the circumstances surrounding the request were not included in the ministry reconsideration decision. The appellant did not elaborate on the health problems that might relate to the request for a supplement to cover the cost of import charges on packages (\$3,000). The appellant also does not provide information about the items contained in the packages to which the import charges apply and whether they may contain medical items needed by the appellant. In the absence of additional information to explain the contents of these packages arriving in Canada and how they might relate to the appellant's physical health, the panel finds that the ministry reasonably determined that there was insufficient evidence to establish that failure to pay the cost of the import charges on packages (\$3,000) will result in imminent danger to the appellant's physical health under Section 57(1) of the EAPWDR.

Conclusion

The panel finds that the ministry's reconsideration decision, which denied the appellant's request for a crisis supplement for the cost of import charges on packages (\$3,000) because all of the requirements of Section 57 of the EAPWDR were not met, was reasonably supported by the evidence and the panel confirms the ministry's decision. The appellant's appeal, therefore, is not successful.

APPEAL NUMBER
2021-00014

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

S. Walters

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2021-02-22

PRINT NAME

Laurie Kent

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021-02-22

PRINT NAME

Jan Lingford

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021-02-22