

APPEAL NUMBER
2021-00053

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated February 10, 2021 which held that the appellant was not eligible for a crisis supplement for the expense of rent. Specifically, the ministry determined that the appellant was not eligible for a crisis supplement because the appellant did not identify an unexpected expense or a requirement to obtain an item unexpectedly needed.

PART D – RELEVANT LEGISLATION

Employment and Assistance Regulation (EAR) section 59

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 income assistance;
2. The appellant receives \$1,045 per month for income assistance, of which \$375 is for a shelter allowance;
3. The appellant has a tenancy agreement in which he is obligated to pay \$1,300 per month and that tenancy agreement had been in place at least since May 2020;
4. On November 10, 2020 the appellant received a \$750 crisis supplement to pay the rent that was due in October 2020;
5. On December 14, 2020 the appellant received a \$1,045 crisis supplement to pay rent arrears of \$150 for November 2020, \$300 for December and \$595 because it was anticipated the appellant would have inadequate resources to pay the rent due in January 2021;
6. On December 15, 2020 the appellant also received \$300 as a temporary emergency disaster supplement;
7. On January 12, 2021 the appellant's landlord confirmed that the appellant had paid the rent that was due for January 2021;
8. On January 20, 2021 the appellant received an additional \$150 as a temporary emergency disaster supplement;
9. On January 22, 2021 the appellant requested a crisis supplement for their January rent;
10. On January 22, 2021 the appellant informed the ministry that they had erroneously received an additional payment of \$450 from the Canada Revenue Agency (CRA) and that the CRA recovered that additional payment;
11. On February 2, 2020 the appellant told the ministry that they had received a "5 day chance to pay notice" and that they were worried they would be evicted from their residence;
12. The appellant provided the ministry with a 10 Day Notice to End Tenancy for Unpaid Rent or Utility that was dated "4-Jan-21," stated that the appellant had failed to pay rent in the amount of \$1300 due on "1-Jan-21," and that the appellant had to move out of the rental unit by "14-Jan-21." That Notice was unsigned but there was the typed name of the landlord. The ministry contacted that person and they confirmed that the Notice was not accurate and was not provided to the appellant.

The appellant did not attend the hearing and after waiting an appropriate length of time and confirming that the Notice of Hearing had been provided to the appellant the hearing proceeded.

During the hearing the ministry made submissions that are described in Part F – Reasons for Panel Decision. There was no new evidence provided during the hearing.

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 the expense of paying rent was reasonably supported by the evidence or a reasonable application of the enactment in the appellant's circumstance. Specifically, was the ministry reasonable in determining that the appellant was not eligible for a crisis supplement was because the appellant did not identify an unexpected expense or a need to obtain an item unexpectedly needed?

The Relevant Legislation

The EAR authorizes the ministry to provide crisis supplements when four conditions are met:

1. The family unit is eligible for income assistance;
2. The supplement is required to meet an unexpected expense or to obtain an item unexpectedly needed;
3. The family unit has no resources to pay that expense or obtain that item; and
4. The failure to pay that expense or obtain that item will result in imminent danger to the physical health of a person in the family or the removal of a child from that family.

When those four conditions are met, there are other restrictions on the discretion of the ministry including:

1. That a crisis supplement can only be provided for the calendar month in which the request is made;
2. That a crisis supplement can not be provided for certain things, such as health care goods or services; and
3. Monetary limits if the crisis is for food, shelter or clothing.

EAR – DIVISION 3 - SUPPLEMENTS

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, 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, and

(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.

The Appellant's Position

In the Notice of Appeal, the appellant wrote: I am broke, unemployed and badly need my money to pay overdue rent with 2 kids. I will pay back in portion after.

In the Request for Reconsideration, the appellant wrote: Due to my debt to the Government and without prior notice, CRA withdrew from my account which I had received my income assistance from the government deposited to this account. I am really broke now and with 2 small kids, I am not able even provide food for them. Therefore, I need badly help to pay for my rent...this is the last time that I am asking for help in 2021.

The Appeal Record did not include any statement from the appellant about an unexpected expense or an item unexpectedly needed.

The Ministry's Position

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

The ministry stated that its position was that the requirement for the appellant to pay rent each month was not an unexpected expense because the tenancy agreement had been in place since May 2020 and implicitly that the appellant should have known the amount of rent they had to pay.

The ministry was asked by the panel at the hearing whether there was a policy statement or any other document that indicated that when someone in receipt of income assistance has an unexpected shortfall in income if that satisfied the legislative requirement for an "unexpected expense." The response from the ministry was that there was no policy to that effect, and that the statutory requirement for an unexpected expense was applied by the ministry.

The ministry was asked if it could explain to the panel the basis for the appellant's entitlement to a crisis supplement on November 10 and December 14, 2020. The ministry did not know why the appellant had been provided with a crisis supplement on those dates.

The ministry was asked about the comments in the reconsideration decision that the appellant was expecting to have a roommate move in with the appellant to reduce the amount of rent the appellant had to pay. Ultimately, this information was determined to not be relevant to the reconsideration or the appeal because the application for a crisis supplement was made in January and section 59 of the EAR states the crisis supplement may be provided only for the calendar month in which the application is made.

The Panel's Decision

The panel understands that the appellant had \$450.00 withdrawn from their bank account because it was a duplicate payment from the government of Canada and that this can reasonably be expected to interfere with the appellant's budgeting.

There was no dispute that the appellant was eligible for income assistance and this requirement, in section 59(1) of the EAR was satisfied.

The panel did not have any information that the appellant had an unexpected expense or needed to obtain an item that was unexpectedly needed. The panel notes that the appellant did have an unexpected withdrawal from their bank account, but that this is not an expense. Consequently, the panel finds that the ministry's determination that the appellant did not satisfy the requirement of section 59(1)(a) of the EAR was reasonably supported by the evidence.

There was no dispute that the appellant did not have resources available to pay their rent and this requirement, in section 59(1)(a) of the EAR was satisfied.

The panel did not have any information that the appellant's failure to pay the rent due would result in imminent danger to their physical health or the removal of a child. Notably, the date in the Notice by which the appellant had to move out of the rental unit (by "14-Jan-21") had passed prior to the appellant making an application for a crisis supplement. Consequently, the panel finds that the ministry's determination that the appellant did not satisfy the requirement of section 59(1)(b) of the EAR was reasonably supported by the evidence.

Conclusion

The panel finds that the ministry's decision that the appellant was not eligible for a crisis supplement was reasonably supported by the evidence because the appellant did not identify an unexpected expense or a need to obtain an item unexpectedly needed. The panel finds that the decision that the appellant was not eligible for a crisis supplement was a reasonable application of the enactment in the appellant's circumstance because the failure to satisfy the requirement of section 59(1) of the EAR means the ministry has no discretion to provide a crisis supplement.

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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)

2021/Mar/31

PRINT NAME

Dawn Martin

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/Mar/31

PRINT NAME

Jeremy Scott

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/Apr/04