

APPEAL NUMBER
2021-0141

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (Ministry) reconsideration decision dated June 17, 2021, which held that the appellant was not eligible for a crisis supplement for the funding of home repairs pursuant to Section 57 of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR).

The ministry found that the appellant does not have the resources to pay for the costs of the home repairs of \$25, 892.42. The ministry also found that there is an imminent danger to the appellant and her child if the repairs are not completed. However, the ministry found that funds are requested for funds that are not unexpected expenses as they are ongoing issues with the appellant's home.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Regulation – EAPWDR- Section 57 (1)

Employment and Assistance for Persons with Disabilities Act – EAPWDA- Section 5

PART E – SUMMARY OF FACTS

Evidence at the Reconsideration

- Quote from contractor for \$25,892.42 for supplies, labour and travel.
- Request for Reconsideration, signed and dated June 17, 2021, which in part stated the following:
 1. The previous contractors did not complete the work and it will take another \$850.00 to complete the work they left undone in the bathroom.
 2. If the repairs are not done, she and her child will not have a place to live and the appellant is worried that the child will be taken by MCFD.
 3. The mould was not there when the previous contractors started the job and it is a result of their poor workmanship which could not be predicted or expected. This is not an ongoing problem but a new one.
 4. The appellant is not asking for repairs to the deck or porch. The request is only for repairs to make the home safe for her and her child.

Evidence on Appeal

Notice of Appeal (NOA) was signed and dated July 8, 2021. It stated that “the issue with my trailer is not ongoing, it is now due to incompetent contractors”.

Evidence at the Hearing

At the hearing, the appellant and the advocates presented a letter dated July 22, 2021. This letter was presented as the appellant testimony. In part, the letter stated the following:

- “2 out of the 3 contractors [REDACTED] hired to fix her home were unreputable and incomplete and then caused increased damage to her home. This is not an ongoing situation, the contractors either did not complete or did shoddy work”.
- “Now this most recent work that was done incorrectly must be redone. This is an unexpected cost not ongoing because how can you expect a contractor would do this incorrectly”.
- “The roof on the porch was repaired incorrectly and now water is running into the walls and the outdoor light. Again, how can you expect this work would be done incorrectly, therefore this repair is also not ongoing as it was meant to be resolved by the contractor. Now the entire porch must be removed due to work not being completed properly and creating new problems”.
- “The contractors had already been paid by the ministry, did bad work, made more problems and [REDACTED] paid them more money to try and fix the unexpected work that was uncovered from hired contractors”.
- “How is [REDACTED] to know that these repairs were done correctly and going to lead to bigger problems in her home”.

When asked the appellant stated the following:

- She does not have trust fund, but her mother gave her money to help with the repairs.
- The appellant’s mother is co-owner of the home but cannot help any further as she too is on a fixed income.
- The contractors were paid upfront by the ministry and the ministry did not inspect the work while it was being done to ensure quality or do a final inspection.
- The appellant has difficulty understanding and managing money.

At the hearing, the ministry relied on its reconsideration decision.

Admissibility of New Information

The ministry did not object to the admission of the information submitted at the hearing.

A panel may consider evidence that is not part of the record as the panel considers is reasonably

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required for a full and fair disclosure of all matters related to the decision under appeal.

In this case, the panel determined that the July 22, 2021 letter is admissible. The panel found that the July 22, 2021, letter does not contain new information and presents the appellant's argument.

PART F – REASONS FOR PANEL DECISION

The issue at appeal is whether the ministry's decision which determined that the appellant failed to establish that the need for a crisis supplement for funding home repairs was an unexpected expense or was unexpectedly needed, and that failure to complete repairs related to heating, such as doors, skirting and insulation, did not cause an imminent danger as the current seasonal temperatures do not put the family at risk, as required by Section 57 (1) (a) of the EAPWDR, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

Section 5 of EAPWDA provides as follows:

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.

Section 57(1) of EAPWDR provides 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*.

Appellant's Position

The appellant argued that there were multiple unexpected repairs needed to her home. These repairs were unexpected because contractors were paid to do the repairs and the contractors did not complete the work, did substandard work or both.

Ministry's Position

The ministry's position is that the appellant's need for a crisis supplement to fund home repairs is not unexpected or not unexpectedly needed as the need for the repairs as been known to the appellant and they were a part of her previous request for home repairs in August 2020.

Panel's Decision.

Section 57 (1) (a) of the EAPWDR states that the minister may provide a crisis supplement to or for a family unit that is eligible for disability assistance or hardship assistance if the family unit or 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 ministry considers the failure to meet the expense or obtain the item will result in imminent danger to the physical health of a member of the family unit.

Unexpected Need or Expense

In its reconsideration decision, the ministry noted that the moisture and mould remediation in the appellant's bedrooms, releveling of the home, replacing the floor, renovating the bathroom with toilet, vanity and tub, replacing skirting including insulation and vapour barrier, and replacing exterior doors were all requested in the appellant's original request for a crisis supplement in August 2020. Therefore, the current request to repair mould and mildew in the child's bedroom by removing and replacing walls, finishing renovation to the bathroom including flooring and subflooring, installing vanity, sink taps and toilet, replacing skirting including insulation and vapour barrier, removal of deck and porch, releveling the home and replacement of windows are not unexpected. The ministry also concluded that the underlying issues with mould, mildew, infestation, rotting floors, plumbing issues and leaks, electrical issues, skirting issues including insulation and vapour barrier and leveling issues are a result of the age of the home and lack of upkeep or maintenance and therefore not unexpected.

In the appellant's August 27, 2020 request for a crisis supplement for home repairs (the original request), she had asked the ministry for the following repairs in the amount \$9,859.60 which the ministry denied:

- Electrical to certify home for silver label
- Relevel addition, replace 2 exterior doors, skirting insulation and barrier, exterior doors, and insulate all plumbing cavities, mould and moisture remediation for 2 bedrooms and 1 addition including 3 exterior walls.
- Change plumbing under trailer, fix leaking shower roughed in at wall, new toilet, plumbing leak and rotten wood, new facet in master bedroom which leaks, bathtub and floor due to rotten wood. Reset bathtub insert as not glued to wall.

On October 28, 2021 a revised quote was submitted to the ministry for the amount of \$8,411.50. This new quote included all of the repairs listed in the August 27, 2021 request with the exception of a new tub and toilet, releveling the addition, replacing 2 exterior doors. The appellant's mother contributed \$2000.00 to help which brought the total cost to the ministry to \$6,411.50.

On November 5, 2021, the ministry approved payment of \$6,411.50 to the contractors to complete all the work list except that which was excluded on October 28, 2021 quote. The ministry paid for the home repairs "due to immediate need/health and safety of family, repairs are needed immediately, or home will be uninhabitable once freezing weather happens".

On March 4, 2021, the appellant informed the ministry that the contractors did not complete the work they were paid to do. There is no evidence to indicate that the ministry intervened on behalf of the appellant or inspected the work.

The appellant also informed the ministry that she was quoted \$850.00 to complete the repairs to the bathroom.

In addition, the appellant had the roof repaired 5 years ago but has since discovered that roof over the entrance was sloped incorrectly which caused rain to run off down the walls and caused moisture issues. It also caused further deterioration of the porch.

The ministry has repeatedly stated that the appellant's current request for a crisis supplement for home repairs is not an unexpected need because the request is for the same repairs that were requested in the original request, and they were previously deemed to be ongoing repairs. Therefore, the appellant is not eligible for the crisis supplement.

The panel is of the opinion that if one pays contractors to complete work as quoted, the work will be completed and completed to the required standards. That is, it is reasonable to presumed that once paid

for, the repairs should have been completed. There is no evidence to suggest that the appellant has knowledge of how home repairs should be complete, and the ministry did no follow up or inspections of the home repairs. The appellant had no way of knowing of the standard to which the previous contractors were working. Though originally there may have been a lack of upkeep, once the ministry paid for the work to be completed the responsibility of the upkeep and maintenance was met. Therefore, it is now unreasonable for the ministry to state that these repairs should be expected as regular upkeep and maintenance or that they are ongoing issues. The panel also finds that since a new roof was paid for 5 years ago, the appellant has completed some upkeep and maintenance and the problems arising from the faulty roof slop are unexpected.

Conclusion

The panel finds that the evidence establishes that the ministry was not reasonable in its determination that all the criteria set out in Section 57 (1) of the EAPWDR have not been met by the appellant. As a result, the panel finds that the ministry's decision to deny the appellant's request for a crisis supplement was not a reasonable application of the legislation and was not reasonably supported by the evidence. The panel rescinds the ministry's reconsideration decision. The appellant is successful at 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

Neena Keram

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2021/07/22

PRINT NAME

Dawn Martin

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/07/22

PRINT NAME

Shirley Heafey

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/07/22