

APPEAL NUMBER
2021-0178

Part C – Decision Under Appeal

The decision under appeal is the Reconsideration Decision of the Ministry of Social Development and Poverty Reduction (“ministry”) dated September 9, 2021, in which the ministry denied the appellant’s request for a crisis supplement of \$1,400 to pay their August rent under section 59 of the Employment and Assistance Regulation (“EAR”).

The ministry was satisfied that the appellant did not have the resources to pay the August rent, and that failure to pay the August rent could result in imminent threat to the appellant’s physical health because there was an eviction notice in effect. However, the ministry was not satisfied that the August rent was an unexpected expense or an unexpected item, and the amount requested was more than the maximum crisis supplement for shelter allowed under EAR section 59(4)(b).

Part D – Relevant Legislation

Employment and Assistance Regulation (EAR) section 59
EAR Schedule A, sections 2 and 4

Part E – Summary of Facts

The appellant did not attend the hearing. The panel confirmed that the appellant had been notified of the hearing and the hearing proceeded under section 86(b) of the EAR.

Evidence Before the Ministry at the Reconsideration:

The appellant is in receipt of benefits under the Employment and Assistance Act (EAA). The appellant's monthly income assistance benefit is \$915. Under EAR Schedule A, sections 2 and 4, the maximum amount of support and shelter for a family unit that matches the appellant's is \$935.

In July 2021 the appellant moved into a new residence. On August 10, 2021, the appellant gave the ministry a shelter information form dated August 4, 2021, showing that the appellant had moved into new accommodation with rent of \$1,400 per month including utilities. The start date of the rental was blank.

On August 11, 2021 the ministry gave the appellant a security deposit of \$700 and a pet deposit of \$100 for the new accommodation.

The appellant asked the ministry for a crisis supplement to pay the \$1,400 monthly rent because they had used their August income assistance benefit to pay the July rent. The appellant told the ministry that they had to leave their previous accommodation because it was "toxic". The ministry told the appellant to give the ministry a copy of an eviction notice if the landlord was giving one.

On August 23, 2021 the ministry received a copy of the appellant's 10 day eviction notice for failure to pay the August rent, dated August 14, 2021.

In the Request for Reconsideration dated September 2, 2021, the appellant stated:

"I was instructed to ask my landlord for an eviction notice to get a crisis shelter payment for the month that I am missing my rent. I was told it was basically going to happen after I get that as I initially made the notes that I haven't yet paid my rent when I updated the shelter form in the first place."

The appellant went on to state that the landlord now said that "the eviction notice [they] gave me to get this crisis cheque is now going to be taken seriously as [they] cannot have the months [sic] rent go passed [sic] this point...."

The appellant gave the ministry another 10 day eviction notice for failure to pay the August rent, dated September 5, 2021.

Part F – Reasons for Panel Decision

The issue to be decided is whether the ministry was reasonable in its decision to deny the appellant a crisis supplement for the appellant's August rent.

Legislation:

Under the EAR section 59(1), the ministry may provide a crisis supplement if:

1. the supplement is needed to meet an unexpected expense or obtain an item unexpectedly needed;
2. there are no resources available to meet that need; and
3. failure to meet the expense or obtain the item will result in imminent danger to physical health.

Under EAR section 59(4)(b), the amount that the ministry can provide as a crisis supplement for shelter is limited to the amount of the monthly rent *or* the maximum rate for support and shelter that applies to the appellant under EAR Schedule A, whichever is smaller.

The legislation requires all the criteria in section 59(1) to be met. At the reconsideration, the ministry accepted that the appellant did not have resources available to pay the August rent. The ministry was also satisfied that failure to pay the August rent could result in imminent danger to the appellant's physical health because the appellant had been given an eviction notice.

However, the ministry was not satisfied that the August rent was an unexpected expense or an unexpected item. Further, the ministry noted that the amount requested (\$1,400) was more than the maximum crisis supplement for shelter allowed under EAR section 59(4)(b).

Appellant's Position:

The appellant's position, as set out in the Request for Reconsideration, is that they understood that they would receive the crisis supplement to pay the August rent once they submitted an eviction notice, because they had explained to the ministry that they had no money to pay the August rent. They had no money to pay the August rent because they had used their August income assistance to pay rent in July, when they had to leave a previous "toxic" residence.

Ministry's Position:

The ministry relied on its reconsideration decision as its submission at the hearing.

The ministry is satisfied that the appellant does not have resources available to pay the August rent, and that failure to pay the August rent could result in imminent danger to the appellant's health, as the landlord has given the appellant an eviction notice.

However, the ministry maintains that the need to pay rent in August was not "an unexpected expense or an item unexpectedly needed" under EAR section 59(1)(a). The appellant knew,

when they used their August income assistance to pay the July rent, that they would have another rent payment due August 1.

Further, under section 59(4)(b), the most the ministry could be permitted to pay as a crisis supplement for shelter is \$935, which is the maximum amount of the shelter and support to which the appellant could be entitled under Schedule A. Therefore, the ministry cannot provide a crisis supplement of \$1,400 to prevent the appellant from being evicted.

In response to questions from the panel, the ministry advised that it did not instruct the appellant to ask for an eviction notice; rather, the ministry told the appellant to submit an eviction notice if the landlord gave them one. The ministry stated that receiving an eviction notice does not decide eligibility for a crisis supplement.

The ministry did not have any records that could clarify what the appellant meant by saying they had “made the notes”, or that the previous accommodation was “toxic.”

Panel Decision:

The ministry has agreed that the appellant did not have the resources to pay the August rent, and that failure to pay the August rent would result in imminent danger to the appellant’s physical health, because the landlord had issued an eviction notice.

The panel must decide if the ministry was reasonable in deciding:

1. that the August rent was not an unexpected expense or an item unexpectedly needed;
and
2. that it did not have the legislative authority to pay a crisis supplement of \$1,400.

The panel finds that the ministry was reasonable in deciding that the August rent was not an unexpected expense or an item unexpectedly needed. The appellant was aware in July that \$1,400 rent would be due on August 1, and that the rent was more than the appellant’s monthly income assistance benefit.

The panel also finds that the ministry was reasonable in finding that it was not authorized to provide a crisis supplement in the amount of \$1,400. EAR section 59(4)(b) limits the amount of a crisis supplement for shelter in the appellant’s case to the lower of the actual rent, or the maximum amount of shelter and support to which the appellant could be entitled under Schedule A, sections 2 and 4. The maximum amount the ministry could be permitted to give the appellant for a crisis supplement for shelter was \$935, which would not prevent the eviction. The legislation does not give the ministry discretion to pay a higher amount as a crisis supplement for shelter.

Conclusion:

The panel confirms the ministry reconsideration decision. The appellant is not successful in the 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)

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

Part H – Signatures

PRINT NAME
Susan Ferguson

SIGNATURE OF CHAIR

Date (Year/Month/Day)
2021/09/22

PRINT NAME
Anil Aggarwal

SIGNATURE OF MEMBER

Date (Year/Month/Day)
2021/09/22

PRINT NAME
Roy Wares

SIGNATURE OF MEMBER

Date (Year/Month/Day)
2021/09/25