

**Part C – Decision Under Appeal**

The decision under appeal is the Ministry of Social Development and Poverty Reduction’s (“ministry”) reconsideration decision dated August 9, 2021 in which the ministry found the appellant was not eligible for a crisis supplement under section 57 of the Employment and Assistance for Persons with Disabilities Regulation (“EAWDR”) for home repairs. The ministry was not satisfied that the need for home repairs was an unexpected expense as required by the Regulation.

**Part D – Relevant Legislation**

The ministry based the reconsideration decision on the following legislation:

Employment and Assistance for Persons with Disabilities Regulation - EAWDR – section 57

The full text is available in the Schedule after the decision.

**Part E – Summary of Facts**

The evidence and documentation before the minister at the reconsideration consisted of:

1. A Request for Reconsideration (“RFR”) signed by the appellant on July 24, 2021 with a typed 2-page submission in which the appellant states her argument and provides the following information regarding repairs to her residence:

- The grey water system “has a tear drop leak of human excrement” which could potentially be leaking into the tap/drinking water. There is also a slow leak onto the ground that is odorous.
- The propane leak detector needs to be replaced with a new one as there is an odor of propane in the residence which indicates a leak and creates a fire risk and health hazard.
- There is an electrical issue in the residence, resulting in flashing lights due to an inconsistent power supply. There could be a faulty wire that could cause an electrical fire.
- The residence needs to be weatherized as there is the hidden danger of water coming in, causing damage over time, and producing porous black mold that is a danger to health.
- The appellant is willing to pay for parts, but cannot afford the labour, and is unable to do the work herself due to chronic pain in her hands and nerve and ligament damage which may require surgery.
- The appellant moved to the property in 2017 but did not ask for financial assistance from the ministry at that time, despite experiencing extreme hardship and trauma.
- The appellant is waiting for quotes from contractors and included a list of the needed repairs:

**Interior**

- propane detector: replace with a new one
- remove and replace a light fixture
- check the electrical power and ground wires to make sure proper amperage is coming in and out of the residence
- check the hot water tank and cold fittings and replace if necessary
- re-align the entrance door as it will not close easily and a major draft comes in during the winter. Moldings may need to be replaced as the door was tampered with.

**Exterior**

- caulk all the windows
- remove an awning and caulk the skylights; replace the moulding where the awning rests
- apply caulking to the residence (back, front, sides)
- replace the 4 drainage ducts for excess water
- check the hosing and fittings for two propane tanks (30 lbs. each), they may need new plumber’s tape
- replace the grey water pull fixture
- replace all rusty screws

**2. Information from the ministry's record of decision which indicates:**

- On June 25, 2021, the appellant requested a crisis supplement for home repairs, stating that she needed some outdoor repairs and parts including weatherizing, caulking, and a replacement part for the grey water system. The appellant said that these things had not been done in 6 years and a leak is getting worse. The appellant expressed concern about additional damage and leaks causing major health issues.
- On July 14, 2021, the ministry advised that the appellant was not eligible for a crisis supplement for home repairs. On July 26, 2021 the appellant submitted a Request for Reconsideration ("RFR"). The ministry completed the review of the RFR on August 9, 2021.
- The appellant is a sole recipient of disability assistance, her file was re-opened in 2016.

*Additional information*

A *Notice of Appeal* (received by the Tribunal on September 13, 2021) includes a letter from the appellant regarding the smell of propane in her residence. The appellant says the odor was serious enough to be questioned by a neighbour. The appellant stresses the urgency of the situation, stating that a propane explosion or fire would threaten not only her life but the other residents in her complex. The appellant states that the propane detector had failed so she was unaware of the danger and safety issues until there was an odor. The appeal submission also included a bank statement for August 2021, with purchases from a parts supplier circled.

Before the hearing the appellant sent three more submissions to the Tribunal:

**1. A typed 8-page submission dated October 9, 2021 that includes a letter from the appellant to the ministry, a business card for a contractor, and an email exchange between the appellant and contractor:**

- In her letter to the ministry, the appellant describes the poor service she received from a contractor who did repairs at the appellant's residence between July 15 and September 6, 2021. The appellant states she has not received a receipt from the contractor, but she paid \$500 cash for repairs at her residence and an additional \$100 for the contractor's out of pocket expenses. The appellant says she felt bullied and some work was neglected causing food in the fridge to spoil on two occasions. The appellant says she was left with a "tiny back up fridge" and has not been able to store food properly or maintain a proper diet. The contractor also failed to complete the repairs and correct deficiencies in the work.
- In the email exchange with the contractor, the appellant provided the list of interior/exterior repairs to be done [*panel note: it is same list that was given to the ministry, see summary above*]. The contractor states they will address the sewer leak, reset the fridge (which might require a specialized technician), and install the propane replacement hose. The appellant expressed her disapproval with the contractor's work and not being given a receipt as requested. The contractor states they went out of their way to perform the work, gave the appellant a discounted rate (which was paid in full) and will decline any further work for the appellant.

2. A hand-written invoice from a contractor dated October 21, 2021, for repairs to a propane fridge; changing the hoses from the propane tank and black water tank, and putting a cover over a slide: \$100, parts supplied by owner.
3. A 5-page submission dated October 25, 2021, consisting of the appellant's bank statements for August and September 2021. Purchases from a parts supplier are circled on the bank statements.
4. A 2-page letter from the appellant to the Tribunal, dated October 30, 2021. The appellant says she needs financial assistance and a repair person to make her home safe and functional. The appellant states her argument on appeal and explains that the repairs were an emergency because they had not been done for 4 years but it was actually longer than that. The appellant reports that some emergency repairs were made 3 years ago, and she covered the cost herself because the ministry denied her request for financial help at that time.

The appellant states that the "propane, propane detector, and black water outlet leak" were the most urgent items on her list of repairs as they could cause "serious issues, hazards, and consequences" for the appellant's residence and the entire property. The appellant explained that the property management requires the residences "to be functioning and in safe working order" and she had to hide the issues with her unit from management as those issues are grounds for eviction if not dealt with immediately.

#### Admissibility of new evidence

The ministry did not object to any of the additional evidence submitted by the appellant. The panel finds that the additional written and documentary evidence is admissible under section 22(4) of the Employment and Assistance Act ("EAA") because it provides further details about the home repairs including an update on the appellant's situation. The panel finds the information is therefore reasonably required for the full and fair disclosure of all matters relating to the decision under appeal.

#### *Oral testimony*

The hearing was originally scheduled as a written hearing, then changed to a teleconference at the appellant's request. The appellant attended the teleconference with an advocate from a community agency. At the hearing, the appellant summarized her situation and in response to questions, provided additional details regarding the home repairs:

- The appellant still doesn't have a proper working fridge and continues to rely on the small temporary fridge that she borrowed.
- The propane detector was not working at all and the appellant did not know there was a problem until her place smelled like propane (she noticed the odor in the summer of this year). The appellant explained that the propane leak and the propane detector are separate (but related) issues. The detector needed to be replaced to indicate there is a leak and the hoses needed to be changed to stop the leak.

The appellant said that when she first noticed the odor, she turned off the propane and called the gas company and they “scoped out things [for her] to look at.” Then she had the propane detector replaced and the hose on each propane tank changed. The appellant said that propane system needs to be “stamped and certified every 10 years.”

- The appellant has lived in her residence for 6 years, but it was moved to the current property in 2017. The unit was last weatherized 6-7 years ago.
- The property where the appellant lives is very strict about having the units in safe and proper condition. The appellant could be forced to move her unit if issues are not addressed, putting her at risk for homelessness.
- When the appellant applied for a crisis supplement for repairs 3 years ago (denied by the ministry) it was for different repairs than the ones she needs help with now. The appellant said she did not report an issue with the propane at that time.
- The repairs have been made because the appellant “had no choice.” The appellant is now seeking reimbursement from the ministry for the cost. The appellant saved the old hoses in case the ministry needs proof they needed replacing,

The ministry did not object to the appellant’s testimony and the panel finds that it is admissible under section 22(4) of the EAA because it clarifies the appellant’s current situation and previous request for a crisis supplement. The panel finds that the additional details are reasonably required for the full and fair disclosure of all matters relating to the decision under appeal.

The ministry provided argument at the hearing and did not submit any new evidence.

**Part F – Reasons for Panel Decision**

The issue on appeal is whether the ministry reasonably concluded that the appellant was not eligible for a crisis supplement under section 57 of the EAPWDR, for home repairs. At the reconsideration, the ministry was satisfied that some of the criteria for a crisis supplement under the EAPWDR were met. The ministry found that the appellant did not have resources available to pay for home repairs, and that not doing the repairs will result in imminent danger to her physical health.

However, the ministry was not satisfied that the need for repairs was unexpected. Therefore, the only criterion at issue in the appeal is whether there was an unexpected expense or unexpected need for an item as required under section 57(1)(a) of the EAPWDR.

*Arguments - Unexpected expense/ item unexpectedly needed*

The ministry's position is that the legislated criteria for a crisis supplement were not met. In the original decision of June 25, 2021, the ministry said that the need for "maintenance, preventative maintenance, part replacement or repair are not considered as unexpected and is the responsibility of the owner."

The ministry argued that the additional information provided for the reconsideration "has not demonstrated an unexpected need or expense for home repairs" because the residence had not been weatherized for 6 years and the ministry could not determine whether the leaks (grey water and propane) and the issue with the wiring (lights flashing and dimming) were unexpected or a result of the age or condition of the residence. The ministry said that homes "need regular maintenance and repairs over time" and argued that the appellant did not provide any evidence of "unexpected circumstances, or other unexpected expenses, that have interfered with your ability to pay for the repairs on your own."

At the hearing, the ministry explained that their decision is governed by legislation and all the criteria for a crisis supplement under section 57 (EAPWDR) need to be met. When asked what evidence would support unexpected circumstances, the ministry gave examples such as the person ending up in hospital and their food spoiling; or a tree falling on the roof of the residence (weather-related events); or a rock thrown through the window to let in cold air.

In reply, the advocate affirmed the appellant didn't know the propane detector wasn't working and argued that the sudden smell of propane last summer was therefore unexpected, "it just happened, it wasn't something [the appellant] was trying to patch up." The advocate compared the situation to a storm hitting the house, causing the roof to start leaking: "the leak would be unexpected even if you hadn't gotten around to doing maintenance."

The appellant's position is that her "top 3 priorities" (grey water leak, propane detector, and propane leak) were an "unexpected life-threatening event that needed immediate attention." The appellant argues that the smell of propane was an "imminent emergency" as it could pose a serious fire risk and health hazard, and the grey water leak was urgent as it could taint the appellant's drinking water and result in severe health consequences. The appellant maintained that if the repairs were not made right away, she could face eviction and even homelessness.

In her RFR submission the appellant states that the ministry “is being very biased in their decision to deny me.” The appellant noted she had not asked the ministry for financial assistance with general maintenance but only when the need for urgent repairs happened unexpectedly, and she had not asked for repairs to the propane and grey water systems in the past. The appellant feels she was taken advantage of by contractors and left to “sort out [the repairs] on my own and cover the costs and deal with the aftermath of the process.” The appellant said the ministry told her to be resourceful, but she feels that the repair issues were not taken seriously, and she has faced “lots of difficulty and hardships trying to get help with my situation.”

#### *Panel's decision*

The panel finds that the ministry reasonably determined the appellant's home repairs were not an unexpected need or expense. The appellant's evidence indicates she had lived in her current location since 2017 when she had her unit moved from another property. The appellant has lived in the unit itself for at least 6 years and the last time it was weatherized was 6-7 years ago. The appellant acknowledged that her residence requires ongoing maintenance, but she cannot do the work herself due to a disability.

The panel finds that the ministry was reasonable to find that home repairs are an ongoing need that the owner is responsible for and the appellant has not demonstrated any unexpected circumstances such as a weather event or break-in that caused the unit to require repairs. While the appellant argues that the issues with the grey water and propane were unexpected emergencies she has not provided evidence of safety checks or past inspections or maintenance, to show that the issues were not caused by the age or condition of those systems.

In particular, the appellant did not give the ministry any dates/information on the last safety check or inspection to confirm that the propane detector was functioning properly. In addition, neither the ministry nor the panel can know from the evidence when the propane hoses were last replaced. The appellant argued that the sudden smell of propane made the need for that repair unexpected, but she acknowledged that some components of the propane system need to be “stamped and certified every 10 years.” There is no information in the record for when the certification was last done or how old her unit is.

The appellant has lived in the residence for 6 years, but it is reasonable to expect that some components such as hoses and the connector (for the grey water) would require more frequent checks/inspections especially since issues with those parts can cause fires and health risks which the appellant is very concerned about. The panel therefore finds that the ministry's decision is reasonably supported by the evidence and the ministry reasonably determined that the requirement for an unexpected expense or need under section 57(1)(a) of the EAPWDR was not met.

#### *Conclusion*

In order to be eligible for a crisis supplement, all criteria in section 57(1) of the EAPWDR need to be met. At the reconsideration, the ministry found that only two of the requirements were met

(no available resources and imminent danger to health). On appeal, the panel finds that the ministry reasonably concluded on the evidence that the requirement for an unexpected expense/ item unexpectedly needed was not met. Because not all of the requirements for a crisis supplement were met, the panel finds that the ministry's reconsideration decision is reasonable. The panel confirms the decision, and the appellant is not successful on appeal.

### **Schedule – Relevant Legislation**

#### **EAPWDR**

**Pursuant to the EAPWDR:**

#### **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*.

APPEAL NUMBER 2021-0180

**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  
Margaret Koren

Signature of Chair

Date (Year/Month/Day)

2021/11/17

Print Name  
Robert McDowell

Signature of Member

Date (Year/Month/Day)

2021/11/17

Print Name  
Robert Kelly

Signature of Member

Date (Year/Month/Day)

2021/11/17