

Part C – Decision Under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Poverty Reduction (the ministry) dated November 2, 2021, that the appellant did not qualify for a crisis supplement for winter tires as the appellant did not meet all the requirements set out in section 59 of the *Employment and Assistance Regulation* (EAR).

The ministry was satisfied that the appellant did not have the resources to purchase a new set of winter tires, but the ministry determined that the appellant had not demonstrated that the supplement was needed to meet an unexpected expense or obtain an item unexpectedly needed, or that failure to obtain the item or meet the expense will result in imminent danger to the appellant's physical health or the removal of a child under the *Child, Family and Community Service Act* (CFCSA).

Part D – Relevant Legislation

EAR, section 59

Part E – Summary of Facts

On October 13, 2021, the appellant submitted a request for a crisis supplement for food through the ministry's online portal. The appellant explained the need to transport the children to and from school and supply them food from the food bank. The appellant also explained that the appellant's winter tires were stolen and stated that she was unable to transport the children to school, doctors, appointments, or eye exams without a car. The appellant provided an estimate for new tires at a cost of \$1,339.92.

On October 19, 2021, the ministry denied the appellant's request for a crisis supplement for food, so that the appellant could purchase winter tires.

The appellant submitted a request for reconsideration form (RFR) October 19, 2021. With the RFR the appellant provided a letter stating that in order to provide meals and necessities and transportation the appellant needs a vehicle that is safe in the harsh winter, so winter tires are mandatory. The appellant states that the appellant has no means of replacing the stolen tires. The appellant states that without winter tires or a safe means to transport the children to school or obtain basic nutrition the appellant could lose the children for neglecting their basic needs. The appellant states that the appellant cannot afford to buy groceries at the grocery store and cannot afford taxi and other transportation costs.

On November 2, 2021, the ministry completed its review.

Additional information provided

With the appellant's Notice of Appeal dated November 3, 2021, she provided a letter indicating that her winter tires had been stolen from her property on two occasions as they have to be stored outside. The appellant states that to avoid this happening in the future, she will use all season winter tires that do not need to be switched over to summer tires and will remain on the vehicle with no need for storage.

The appellant states that public transportation is not available, and the closest bus stop is a 45-minute walk. The appellant states that there is no school bus that the children can take so all transportation is the responsibility of the appellant. The appellant states that winters are horrendous in the appellant's community and that if the appellant does not have means to get into town or transport the children to emergency services or other appointments, the children will be removed from the appellant's care. The appellant is also expecting another child in a few weeks.

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*.

Admissibility of New Information

The ministry did not object to the admissibility of the new information.

The panel has admitted the information with the NOA as it is reasonably required for a full and fair disclosure of all matters related to the decision under appeal, in accordance with section 22(4) of the *Employment and Assistance Act*. In particular, the new information relates to the appellant's reasons that the crisis supplement is required.

Part F – Reasons for Panel Decision**Issue on Appeal**

The issue on appeal is whether the ministry's decision, which denied the appellant's request for a crisis supplement to cover the cost of winter tires because all the requirements of section 59 of the EAR were not met, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. In particular, was the ministry reasonable when concluding it was not satisfied that

- the appellant had not demonstrated that the supplement was needed to meet an unexpected expense or obtain an item unexpectedly needed; or
- that failure to obtain the item or meet the expense will result in imminent danger to the appellant's physical health or the removal of a child under the *Child, Family and Community Service Act* (CFCSA)?

Section 59 of the EAR sets out the eligibility requirements for providing a crisis supplement, as follows:

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*.

Ministry's position

The ministry's position is that the appellant is aware of the need for winter tires as the appellant has resided in the community for a few years and would be aware that winter tires are needed for the winter conditions. The ministry states that the appellant reported winter tires stolen the year previously, and while the appellant had not indicated if this was the same set of tires or if this has happened twice in two years, it was difficult for the ministry to determine if the appellant had an unexpected need for winter tires at this time.

The ministry's position is that if it was the same set of tires stolen in October 2020, the appellant's need would no longer be considered unexpected as the appellant would have been

aware of the need since then. The reconsideration decision indicates that if the tires were stolen twice in two years, the ministry is unable to establish that the appellant could not have reasonably predicted this would happen again. In addition, the ministry writes that the appellant has not indicated that the appellant incurred an unexpected expense that has prevented the appellant from budgeting for new tires. The ministry's position is that the appellant has not established an unexpected need to replace the stolen tires or that the appellant has had unexpected expenses as required by section 59(1)(a) of the EAR.

The ministry acknowledges that tires are necessary to travel safely by personal vehicle during winter months in the community in which the appellant resides. However, the ministry states that the word "imminent" denotes a sense of urgency and while transporting several children to school, attending appointments, and accessing groceries is less convenient without a personal vehicle, the ministry found no evidence to support that the appellant or the appellant's children's health would be in urgent danger if the appellant was unable to purchase winter tires.

The ministry states that the appellant has not explained why the children are unable to walk to school or take the school bus. The ministry writes that the appellant has not provided any evidence to support that the appellant would be unable to walk or rely on public transit to access the food bank or attend appointments as needed. The ministry was not satisfied that failure to purchase winter tires so the appellant can drive a personal vehicle will result in imminent danger to the appellant or the appellant's health. The ministry also found that there was no evidence to suggest that the appellant was at risk of having one of the children removed from the appellant's care. The ministry found that the appellant did not meet the requirements of EAR section 59(1)(b).

Appellant's position

The appellant's position is that the need for the winter tires is an unexpected expense and that it is necessary to have winter tires to drive the children to school, appointments, and to obtain groceries from the food bank. The appellant states that there is no school bus, and the closest bus is 45-minute walk. The appellant's position is that without winter tires the appellant will not be able to properly care for the children and is at risk of having them removed from the appellant's care. With the NOA, the appellant clarified that the winter tires had been stolen on two occasions as they had to be stored outside.

Panel Decision

Unexpected Need

The panel finds that the ministry reasonably determined that the need for winter tires was not an unexpected expense or that the appellant required the crisis supplement to obtain an item unexpectedly needed. The panel finds that the ministry reasonably determined that as the appellant has resided in the community for over two years and is aware of the harsh winters in that area, that the need for winter tires is not unexpected.

The panel also finds that the ministry reasonably determined that if the winter tires were stolen the year previously, it would not be unexpected that if stored in the same place, another set of

tires may be stolen again. While the appellant offers a solution as to how the appellant will avoid another set of tires being stolen in the future, the panel finds that the ministry reasonably determined that the need for winter tires was not unexpected. The appellant also did not provide any information to explain when the tires were stolen or why the appellant had not budgeted to replace the winter tires. The panel finds that the ministry reasonably determined that the legislative requirements of EAR section 59(1)(a) were not met.

Imminent danger to physical health

Section 59 of the EAR allows for the ministry to provide a crisis supplement when all of the legislative criteria are met, including that 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 Services Act (CFCSA)*.

The panel finds that the ministry reasonably concluded that the word “imminent” denotes a sense of urgency and that while transporting several children to school, attending appointments, and accessing groceries is less convenient without a personal vehicle, the ministry reasonably determined that there was no evidence to support that the appellant or the appellant’s children’s health would be in urgent danger if the appellant was unable to purchase winter tires. While the appellant states that there is no school bus, and while it may be challenging for the appellant to get the children to the public transit 45 minutes’ walk away, there is no evidence that the requirement to walk 45 minutes to a bus stop would result in imminent danger to health.

The panel also finds that the ministry reasonably determined that there was no evidence to suggest that the appellant was at risk of having one of the children removed from the appellant’s care. While the panel appreciates that taking care of the children and getting to and from appointments and to the food bank to obtain groceries will be difficult in the winter without a personal vehicle, and while the panel appreciates the appellant’s concern and worry about providing proper care and nutrition for the children, the appellant did not provide any evidence to indicate that the children are at risk of removal from the appellant’s care. Accordingly, the panel finds that the ministry reasonably determined that the appellant did not meet the legislative requirements of EAR section 59(1)(b).

Conclusion

The panel finds that the ministry’s reconsideration decision, which determined that the appellant was not eligible for a crisis supplement for winter tires because all the requirements of section 59 of the EAR were not met, was reasonably supported by the evidence and a reasonable application of the legislation in the appellant’s circumstances.

The panel therefore confirms the decision. The appellant is not successful on appeal.

APPEAL NUMBER
2021-0210

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

Helene Walford

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2021/12/08

PRINT NAME

Bill Haire

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/12/08

PRINT NAME

Charlie Schellinck

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/12/08