

Appeal Number 2021-0253

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction's (the "Ministry") reconsideration decision of Dec 21, 2021 in which the Ministry determined the Appellant was not eligible for a crisis supplement for the reimbursement of cost associated with the removal of a sub-tenant's belongings upon eviction, pursuant to Section 57 of the *Employment and Assistance for Persons with Disabilities Regulation*.

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Part D – Relevant Legislation

EAPWDR – *Employment Assistance for Persons with Disabilities Regulation, Section 57*

Part E – Summary of Facts

The information before the Ministry at the time of reconsideration included the following:

- 1) The Appellant is a sole recipient of assistance with a Person with Disabilities designation (PWD).
- 2) **October 2021** – the Appellant received \$1715.50 (combined income assistance and nutritional supplements).
- 3) The Appellant’s rent per month is \$450.00
- 4) **September 23, 2021** – The Appellant’s third- party administrator submitted a receipt for junk removal on behalf of the Appellant for \$400.00.
- 5) The Appellant advised the Ministry that the roommate was asked to leave in August, 2021 and left him with the contents of the room, as well as a need to have pest infestation removal.
- 6) **October 1, 2021** – According to the Ministry, the Appellant indicated that the room-mate was supposed to pay for some of the content removal and never did. The Appellant had to pay to remove the contents and pest infestation, and the cost associated with the repair total was taken from money to pay for food and bills.
- 7) **October 15, 2021**- The Ministry denied the request for reimbursement for junk removal costs of 400.00 as it was not an eligible shelter allowance item.
- 8) **November 18, 2021** – The Appellant’s advocate submitted a Request for Reconsideration.

Additional Information

The Appellant had submitted a January 21, 2022 dated file (27 pages) that contained the following information: dental treatment information regarding a root canal issue (3 pg), prescription drug information related to the root canal issue (4 pg), tax information in the form of a T-5 form (1 pg), a rent “owed” for Sept 1 – 15 2021 receipt from the landlord for half a month’s rent - \$237.50 (1 pg), August 18, 2021 dated work order for pest infestation control (\$407.40) (1 pg), a receipt for junk control dated August 18, 2021 (400.00) (1 pg), medical information related to the Appellant’s disability (3 pg), summary of original decision of the ministry (1 pg), emails between advocate and Appellant regarding (said) request for junk removal (5 pg), and pictures of the (said) unit before and after the junk removal (7 pg).

The Appellant noted at the hearing that while the dental work information and pest infestation information appear irrelevant to the matter at hand, the information submitted does support why he did not have extra resources to pay for the junk removal (he was saving money to address his root canal issue), and the pest information supports the urgency (at the time) in the matter. Additionally, the Appellant confirmed at the hearing that some of the contents of the room (unit) were his own, and the roommate was asked to leave because he posed a safety risk (setting fires).

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The file content's admissibility was not objected to by the Ministry, and therefore was admitted as it was determined to be reasonably required for a full and fair disclosure of all matters related to the decision under appeal, pursuant to section 22(4) of the *Employment and Assistance Act*.

Part F – Reasons for Panel Decision

The decision under appeal is the reasonableness of the Ministry of Social Development and Poverty Reduction's (the "Ministry") decision of Dec 21, 2021 in which the Ministry determined the Appellant was not eligible for a crisis supplement for the reimbursement of cost associated with the removal of a sub-tenant's belongings upon eviction, pursuant to Section 57 of the *Employment and Assistance for Persons with Disabilities Regulation*.

Full text of EAPWDR section 57 is provided at the end of the decision.

Panel Decision

The Ministry's position is that the Appellant is not eligible for a crisis supplement because he did not provide sufficient support of an unexpected expense, or that he did not have the resources to meet his needs, and that a failure to receive the crisis supplement for junk removal would result in imminent danger to his physical health. The Ministry's position is that because the Appellant submitted the request for reimbursement on September 23, 2021 and not immediately after the junk was removed (August 17, 2021), a sense of urgency was not met. Further, the Ministry's position is that the expense was not unexpected because the room-mate was to pay for some of the cost of removal, and because the Appellant had agreed to pay for some or part of the removal, the Ministry contends that some of the belongings actually belonged to the Appellant himself. The Appellant's position, was that his room-mate was asked to leave in the middle of August, 2021. The Appellant did not expect to have to remove the belongings when his room-mate left, or have to have substantial cleaning/pest removal done before another tenant could move in. The Appellant noted that he was saving money to cover the cost of dental treatment not covered by the Ministry, and therefore did not have the resources to pay for the removal of the junk and or pest control. The Appellant contested the fact that he had agreed to pay for some of the removal, but did confirm that some of the discarded belongings in the unit were his own. In response to the Ministry's suggestion that no sense of urgency was sensed due to a delay in applying for reimbursement of costs, the Appellant provided that the third-party administrator contributes to a delay in communication between himself and the Ministry, and his request was made on August 18, 2021 for reimbursement of costs (a day after the removal and cleaning).

As outlined in Section 57 of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR) section 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*. (2) A crisis

supplement may be provided only for the calendar month in which the application or request for the supplement is made.

The panel considered that the Appellant ought to have known that the roommate would not take all of the belongings from the unit, as some of them belonged to the Appellant. This fact was confirmed by the Appellant at the hearing. Further confirmed by the Appellant was that that he suspected continued issues arising from the roommate, as he posed a significant danger to the rental unit (set fires), which was why the roommate was asked to leave.

The panel considered that the unexpected nature of having to remove the room-mates belongings cannot be established because of the fact that some of the belongings were his own. The panel determined that the evidence establishes the Ministry was reasonable in its application of section 57(1)(a) of the EAPWDR. The fact that the Appellant suffered a pest-infestation which contributed to having to throw out belongings is unfortunate and is acknowledged by the panel. However, the pest-infestation issue falls under tenancy legislation (reimbursement of costs), and not within the jurisdiction of this Tribunal.

The panel considered that no other criteria of section 57(1) of the EAPWDR are required to be established if 57(1)(a) is not met.

Considering the evidence in this appeal that was reasonably required for a full and fair disclosure of all matters related to the decision under appeal, the panel finds that the Ministry was reasonable in its determination to deny the Appellant a crisis supplement under Section 57 of the *Employment and Assistance for Persons with Disabilities Regulation*.

Accordingly, the majority panel confirms the Ministry's decision, and the Appellant is not successful in this appeal, pursuant to *Section 24(1)(a) and (2)(a) of the Employment and Assistance Act*.

Legislation

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*.(2) A crisis supplement may

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be provided only for the calendar month in which the application or request for the supplement is made.

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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
Jennifer Armstrong

Signature of Chair

Date (Year/Month/Day)
2022/02/09

Print Name
Cherri Fitzsimmons

Signature of Member

Date (Year/Month/Day)
2022/02/09

Print Name
Anil Aggarwal

Signature of Member

Date (Year/Month/Day)
2022/02/09