

Part C – Decision Under Appeal

This is an appeal about the Ministry of Social Development and Poverty Reduction’s (the “Ministry”) reconsideration decision of March 3, 2022 that denied the Appellant a crisis supplement for a cord of firewood pursuant to section 57 of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR).

The Ministry determined that the Appellant’s need for firewood was unexpected. However, in the reconsideration decision the Ministry determined that the Appellant had other resources to pay for the firewood and that failure to meet the expense would not result in imminent danger to the appellant’s physical health. Accordingly, the issues that must be determined are whether the Ministry’s decision that the Appellant had other resources to pay for the firewood and that failure to meet the expense would not result in imminent danger to physical health are reasonably supported by the evidence or a reasonable application of the legislation in the circumstances of the Appellant.

Part D – Relevant Legislation

Section 57 of the *Employment and Assistance for Persons with Disabilities Regulation*, BC Reg, 265/2002.

The full text of this section of legislation is set out in the Schedule of Legislation at the end of this decision.

Part E – Summary of Facts

The Ministry had the following information when it made the reconsideration decision:

1. The appellant is a sole recipient of Person with Disabilities designation.
2. The appellant receives \$1410.50 per month for disability assistance. This amount includes \$983.50 for a support allowance, \$375 for a shelter allowance and \$52 for a transportation supplement. From this amount \$756.04 received from the Canada Pension Plan is deducted.
3. On January 26, 2022, the appellant advised that she purchased a cord of wood to heat her home while she waited for propane to be delivered. The appellant said she needed heat, so pipes do not freeze. The appellant said she did not get a receipt as the firewood provider deals only in cash. The appellant explained that she withdrew \$14,000.00 from a GIC but “got dinged for that.”
4. On February 8, 2022, the ministry denied the appellant’s request for a crisis supplement for firewood saying that the appellant had resources to meet this need.
5. On February 14, 2022, the appellant submitted a request for reconsideration. In this request the appellant explained that her firewood cost had increased since she applied in 2018 and she is no longer able to get wood on her own and needs to have it split and put away because of her medical condition. The appellant explained that she now uses about 3 cords of wood and that she tried to preserve the use of wood, but this caused her bathroom pipes to freeze, and she has been unable to get them repaired and is using a bucket until she can get them fixed. The appellant said that she purchased one cord of firewood (split and stacked) for \$500.
6. On February 16, 2022, the ministry proved a crisis supplement for \$600 to purchase propane to heat the appellant’s home.

New Evidence

At the hearing, the Appellant provided the following extra information:

1. She applied for designation as a person with disabilities in 2002 in order to receive medical benefits but did not apply for disability assistance benefits until 2018 when her health deteriorated further and she was no longer able to support herself financially.
2. In addition to existing disabilities the appellant is dealing with a cancer diagnosis and treatment.
3. The appellant needs to travel regularly to Prince George for medical treatment and requires a reliable vehicle to do so.
4. The appellant’s old vehicle was unreliable and was unable to travel snowy winter roads to and from Prince George. To have reliable transportation, the appellant purchased a used

vehicle in decent shape.

5. To purchase the replacement vehicle, the appellant cashed in a \$15,000.00 GIC. Most of these funds went to paying for the vehicle. The remainder were used to pay down credit card debt.
6. The appellant has no other sources of income aside from the funds she receives monthly from Canada Pension Plan and the ministry for disability and these funds do not cover her monthly basic living expenses.
7. The appellant uses her credit card to cover the shortfall of funds to meet her basic living expenses.
8. The winter was colder than anticipated resulting in increased heating costs.
9. By late December 2021 the appellant had run out of both propane and firewood leaving her with no heating source for her home. As a result, her pipes froze.
10. In late December, the appellant's doctor heard that she had no heat source for her home and that her pipes were frozen and advised her that she needed to find a heat source or he would have to remove her from her home and place her in hospital.
11. The appellant tried to arrange for a delivery of propane to heat her home. However, the earliest the propane could be delivered was 3 weeks later. The appellant had intended to pay for this using her credit card, which she would have to pay off later.
12. The appellant arranged for a cord of firewood to be delivered. The firewood provider did not accept credit card payment and the appellant had to use money she had set aside for food and other necessities to pay for the firewood.
13. The appellant's pipes have thawed; however, there is a cracked pipe under her home and she must place a bucket there and empty it on occasion until she is able to get the plumbing fixed.
14. On February 16, 2022, the appellant received a crisis supplement for propane from the ministry. However, the appellant was unable to heat her home using the supplied propane as the provider indicated that rats had nested within the heating conduits creating a fire hazard and that they would need to be removed prior to using the propane heat source.
15. The ministry has been in touch with the appellant and is working with her to fix her plumbing issue.

At the hearing, the ministry representative provided the following extra information not included in the reconsideration decision:

1. Since making the reconsideration decision the ministry has received a doctor's note from

the appellant's doctor indicating that if the Appellant did not arrange for a heat source at home that she would have to be removed from her home and placed in hospital; and

2. That the Appellant had contacted the local ministry office in early December stating that she had cashed a GIC to pay off credit card debt and purchase a reliable vehicle.
3. Under the persons with disabilities legislation, individuals designated as a person with disabilities are permitted to hold assets up to a certain sum.

The ministry representative objected to the appellant's new evidence being admitted on the ground that the information was about the appellant's history generally and was not directly relevant to the issue of the crisis supplement for firewood. The appellant did not object to the new evidence provided by the ministry representative. The panel determined that the new evidence was 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* and admitted the new evidence provided by both parties.

Part F – Reasons for Panel Decision

This is an appeal about the Ministry of Social Development and Poverty Reduction's (the "Ministry") reconsideration decision of March 3, 2022 that denied the Appellant a crisis supplement for a cord of firewood pursuant to section 57 of the EAPWDR.

Section 57 of the EAWDR states that a crisis supplement must meet all three of the following criteria:

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

The ministry determined that the appellant's need for firewood was unexpected. However, the ministry determined that the appellant did not meet the other two criteria. The ministry decided that the appellant had other resources available to pay for the firewood. The ministry also decided that because the ministry had provided a crisis supplement for propane in the intervening time between the initial ministry decision and the reconsideration decision that failure to meet the expense would not result in imminent danger to the appellant's physical health.

Accordingly, the issues that must be determined in this decision are whether the Ministry's decision that 1) the Appellant had other resources to pay for the firewood and 2) that failure to meet the expense would not result in imminent danger to physical health are reasonably supported by the evidence or a reasonable application of the legislation in the circumstances of the Appellant.

Ministry's Position

At the hearing, the ministry confirmed that it was relying on its reconsideration decision and highlighted that in the reconsideration decision the ministry agreed that the first of the three criteria set out in section 57 of the EAWDR were met. The ministry stated that it was satisfied that the firewood was an unexpected expense. However, the ministry stated that it was not satisfied that the appellant had no resources available to pay for the cord of firewood. Further, the ministry stated that it was not satisfied that failure to provide the firewood would result in imminent danger to the appellant's physical health.

With respect to the issue of other resources, the ministry relied on the fact that the appellant indicated that she paid for the cord of firewood with cash and had not said that this money had been borrowed or otherwise had to be repaid.

With respect to the issue of imminent danger, the ministry stated that because the ministry had provided a crisis supplement to purchase propane between the time when the appellant applied for the crisis supplement for firewood and when the reconsideration decision was made that the appellant now had a heat source and imminent harm had been avoided.

The ministry representative mentioned the existence of a doctor's note on file in passing. When questioned, the ministry acknowledged that after the reconsideration decision was made that it received a doctor's note from the appellant's doctor confirming that the purchase of firewood was necessary to avoid imminent harm to the appellant's physical health.

Appellant's Position

At the hearing, the appellant submitted that the ministry erred when it found that she had

resources to pay for the cord of firewood. The appellant stated that while it is true that she did pay for the firewood with cash, that she only did so as she had no other choice as propane (which she could have paid for via credit card) could not be delivered for three weeks and the firewood source did not accept credit card payment. The appellant said that to have cash to pay for the firewood she had to use the cash she had set aside for her monthly food and other necessities. The appellant stated that she then purchased food with her credit card and would have to pay this amount back at some point.

The appellant clarified that she cashed her GIC in November 2021 to purchase a reliable vehicle and used the remainder of the funds to pay off some of her credit card debt. The appellant said that the credit card debt had accumulated from using her credit cards to make up the shortfall in her monthly income. The appellant stated that she had no funds available from cashing her GIC available to pay for the firewood having spent all the GIC funds on a reliable vehicle and credit card debt.

The appellant explained in detail how her monthly living expenses are higher than her monthly income and that she must choose which bills to pay each month never having enough money to pay all bills and have enough left over to buy food and other necessities.

The appellant advised that her ongoing health challenges made it necessary for her to have a heat source at home. She stated that when her doctor learned that she had no heat source and frozen pipes that he told her that she had to remedy the situation, or he would have to move her out of her home and into the hospital.

The appellant stated that while it is true that the ministry provided a further crisis supplement for propane between the time of her initial application for a crisis supplement for firewood and the ministry's reconsideration decision that the delivery of propane has not solved her heating crisis as the propane delivery person found evidence of rats' nests in her heating conduit and advised her not to use propane heat as the nests created a fire hazard.

Panel Decision

The issue the panel must determine is whether the ministry reasonably determined that the appellant did not meet the three criteria necessary to get a crisis supplement. It is uncontested that the need for additional firewood was unexpected. The dispute is about whether the appellant had resources to pay for the firewood and whether the firewood was necessary to prevent imminent danger to the appellant's physical health.

With respect to the issue of whether the appellant had other resources to purchase the firewood, the appellant provided new evidence at the hearing about the resources available to her at the time the firewood was purchased. The panel finds as fact that the appellant did not have cash funds from her GIC available to her to purchase the firewood. When questioned by the panel, the ministry representative indicated that ministry records from November 2021 indicate that the appellant had contacted them at that time to advise them that she was cashing her GIC to purchase a reliable vehicle and to pay off debt. The panel finds that this corroborates the appellant's assertion that she used the entirety of those funds prior to discovering that she urgently needed firewood.

Further, at the hearing the appellant explained in detail how her monthly living expenses are higher than her monthly income and that she must choose which bills to pay each month never having enough money to pay all bills and obtain food and other necessities. The panel finds as fact that the appellant's living expenses are higher her monthly income. Accordingly, the panel accepts that the appellant borrowed from the cash resources she had budgeted for food and other necessities to purchase the firewood as the firewood was urgently needed. This is

highlighted by the fact that the appellant initially planned to purchase propane using her credit card, only to be told that propane would not be able to be delivered for three weeks. Had propane been available, the appellant would have borrowed from her credit card to fund the purchase of a heat source; however, propane was not available in a timely manner.

The panel finds that after using the cash budgeted for food and necessities to purchase firewood that the appellant had no cash resources left and had to purchase these items on her credit card. It is undisputed that the appellant will have to pay off the credit card debt. While the appellant could have applied for a crisis supplement for food, food was not the unexpected expense nor was it what would remedy the imminent risk of harm that existed from not having a heat source.

For the reasons set out above, which include new evidence presented at the hearing, the panel finds that the appellant did not have other resources available to purchase the firewood and that the ministry's reconsideration decision on this point was unreasonable in light of the evidence.

With respect to the issue of whether the purchase of firewood was necessary to prevent imminent danger to the appellant's physical health, the doctor's note provided to the ministry stating that firewood was needed to prevent imminent danger to the appellant's health provides evidence that the appellant's health was in jeopardy. The panel further accepts the appellant's explanation about the existence of rats' nests in her heating conduit as the reason why she was unable to use the propane the ministry had provided via a separate crisis supplement in the time between her initial application for firewood and the reconsideration decision. Taken together, the panel finds that the doctor's note and the appellant's explanation about the nests in the heating conduit indicate that funds for firewood were urgently needed to avoid imminent danger to the appellant's physical health.

For the reasons set out above, which include new evidence presented at the hearing, the panel finds that the appellant faced imminent danger to her physical health if the firewood had not been obtained and that the ministry's reconsideration decision on this point was unreasonable in light of the evidence.

To conclude, the panel finds that the new evidence presented at the hearing of this appeal indicates that the appellant met the three criteria for a crisis supplement set out in section 57 of the EAPWDR and the ministry's decision to deny the crisis supplement for firewood was not reasonably supported by the new evidence.

Accordingly, the panel rescinds the Ministry's decision pursuant to section 24(1)(a) and 24(2)(b) of the *Employment and Assistance Act*.

The appellant's appeal is successful.

Schedule of Legislation

Employment and Assistance for Persons with Disabilities Regulation, section 57

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

(3)A crisis supplement may not be provided for the purpose of obtaining

(a)a supplement described in Schedule C, or

(b)any other health care goods or services.

(4)A crisis supplement provided for food, shelter or clothing is subject to the following limitations:

(a)if for food, the maximum amount that may be provided in a calendar month is \$40 for each person in the family unit;

(b)if for shelter, the maximum amount that may be provided in a calendar month is the smaller of

(i)the family unit's actual shelter cost, and

(ii)the sum of

(A)the maximum set out in section 2 of Schedule A and the maximum set out in section 4 of Schedule A, or

(B)the maximum set out in Table 1 of Schedule D and the maximum set out in Table 2 of Schedule D,

as applicable, for a family unit that matches the family unit;

(c)if for clothing, the amount that may be provided must not exceed the

smaller of

- (i)\$100 for each person in the family unit in the 12 calendar month period preceding the date of application for the crisis supplement, and
- (ii)\$400 for the family unit in the 12 calendar month period preceding the date of application for the crisis supplement.

(5) and (6) Repealed. [B.C. Reg. 248/2018, App. 2, s. 2.]

(7) Despite subsection (4) (b), a crisis supplement may be provided to or for a family unit for the following:

- (a) fuel for heating;
- (b) fuel for cooking meals;
- (c) water;
- (d) hydro.

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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

Emily Drown

Signature of Chair

Date (Year/Month/Day)

2022/04/12

Print Name

Julie Iuvancigh

Signature of Member

Date (Year/Month/Day)

2022/04/12

Print Name

Kulwant Bal

Signature of Member

Date (Year/Month/Day)

2022/04/12