

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 January 26, 2023. It denied the appellant's request for a crisis supplement for shelter to pay rent for December 2022. The ministry determined that the appellant did not meet all required eligibility criteria.

Specifically, the Ministry was unable to determine that:

1. The need was unexpected because there was not enough information about how long the appellant had lived without a roommate;
2. resources were unavailable because the appellant had advised rent had been paid; and
3. failure to provide the supplement would result in imminent danger to the appellant's physical health because the rent had been paid.

Part D – Relevant Legislation

Employment and Assistance Regulation section 59

This section of the legislation can be found at the end of the decision.

Part E – Summary of Facts

From the ministry file:

- The appellant is a sole recipient of income assistance. He currently receives \$935 per month for income assistance. This amount includes \$560 for a support allowance and \$375 for a shelter allowance.
- On November 8, 2022, the appellant reported he received \$1684 Employment Insurance (EI) income in the month of October. As a result, he was ineligible for December income assistance because his \$1684 EI income exceeded the \$935 rate of income assistance.

On December 14, 2022, the appellant requested a crisis supplement for shelter to pay his December rent. In his application and an attached statement, the appellant wrote that:

- He owes \$1,000 rent for December. Usually, he has a roommate who covers that amount.
- Rents have skyrocketed and because of inflation there are not many renters, and people are staying where they are.
- He has tried to find a renter by asking friends and family, and by advertising.
- He has paid the landlord \$1200, and they are coming up with a plan for the rest but a crisis supplement would really help make things better and provide him with breathing room.
- He has no job; his EI has run out and he has no funds to pay his bills. His church has already helped with some of the bills. He has some money for food but nothing more.
- He could really use some help until he finds a permanent position.
- The direct threat to his health and safety is the threat of being “kicked out”.
- Normally his rent is paid but he has no roommate at this time.

From the ministry file:

- On December 22, 2022, the ministry denied the appellant’s request because he was not eligible for December income assistance due to excess EI income.
- On December 23, 2022, the ministry noted the appellant could complete a streamlined application to determine his continued eligibility for income assistance because he had advised his EI claim had ended at the end of November.

In his request for reconsideration dated January 12, 2023, the appellant wrote:

“You said my crisis supplement was rejected because my account was not currently “active” due to EI. Well, I have since done an expedited application to reopen my account because I need some [money] before the end of January while I continue to look for a job.

I still owe my landlord rent so wondering where you are at in the process..."

From the ministry file

- On January 16, 2023, the ministry began a streamlined reapplication with the appellant. They noted the appellant advised his December rent had been paid, but he still had to pay January rent.
- On January 19, 2023, the ministry determined the appellant was eligible for income assistance as he was no longer in receipt of EI benefits. They issued pro-rated support for December (from December 23, 2022) and no shelter allowance because the appellant had advised his December rent was already paid. They further issued you full support and shelter (\$935) for January and February.

In a note that, according to the ministry file, was received on January 20, 2023 the appellant wrote that things have changed and he has now been found eligible for income assistance for December 2022.

In his Notice of Appeal dated January 26, 2023, the appellant wrote:
"The decision was based on limited and/or incorrect information."

With his Notice of Appeal, the appellant provided a written submission in which he repeated previously given information and added that he still owes his landlord rent, and a crisis supplement would help. Both December and January rent were not paid in full. The appellant wrote: "My roommate physically moved out in September 2022 but had paid rent until the end of October 2022. So I immediately started to look for a tenant for November 1st. I posted an ad [locally] October 3rd. Time passed and I had very minimal responses to the ad but 100's of views which I already explained is very unusual. Because I had been on EI in November I was able to cover the cost of rent without a roommate for that month. At the end of November my EI was done. So December -- no EI; no roommate; no income assistance; no job – I was unable to pay my full rent. My landlord will corroborate this. So I paid what I could. The reason there may have been confusion on why or why not December rent had been paid is because as an emergency measure my landlord used my damage deposit of \$1000.00 to pay the rest of December rent. (Which I don't know is legal or not to do but this is what happened.) So is that considered paid? I don't know. To me it's not because now my damage is missing. When I received December approval for income assistance on January 20th 2023 I used that money to pay January rent. But I still owe December \$1000.00 because my damage deposit was used?... My roommate moving out was not unexpected because he had given notice. The unexpected part was that I was not able to find a roommate with over 800 views of the ad.

I still have not found a roommate 3 months later. Normally an ad with a clean place like this would have rented already but due to unforeseen rental property market prices and inflation the cost of food and utilities and rents skyrocketing ... people are staying where they are for the time being. (Check any paper.) Obviously my landlord and I have talked to everyone we know as well to spread the word of the rental. We reassess the situation periodically and are again going to be talking soon to decide if this situation is sustainable. She also posted a Facebook ad online to help out. I never thought in a million years that I wouldn't be able to rent this room but that is how things have went ... Unexpected and unforeseen!"

A receipt dated October 3, 2022, shows the appellant paid \$26.25 for a local ad.

A screen shot of a September text message exchange [no year shown] indicates that a roommate was moving out and a new roommate was needed for November.

At the hearing the appellant repeated previous information and argument and added that his accommodation is a clean ground-level 2-bedroom suite in a house. The total monthly rent is \$2200, his portion is \$1200. The room that is usually rented to a roommate is of "decent" size, has a window and is reasonably priced at \$1000. He still has not found another roommate. Around December 22, 2022, the appellant's landlord "unilaterally" informed him in a text message that she had taken his security deposit. He reiterated that he would face homelessness if rent were not paid. The appellant stated further that his communication with the ministry was always a result of his own initiative. No-one informed him about a damage deposit supplement. The ministry did not request a receipt for paid shelter for December rent. The appellant has investigated the Canada Housing Benefit but found that an application takes around 2 months to process.

The ministry presented its reconsideration summary and stated they are not aware why time passed between December 22, 2022, when the ministry noted the appellant could complete a streamlined application for IA, and January 16, 2023, when the ministry began a streamlined reapplication with the appellant. As part of their procedure the ministry would have requested as documentation a receipt for December rent paid, but there is none on file. A security deposit is not considered an available resource for paying expenses such as rent. To a question from the panel the ministry responded that, had the new information been available to them at reconsideration, they would have found that the appellant meets all legislated eligibility criteria for the crisis supplement.

Admissibility of New Information

The panel finds that the information provided by the appellant on appeal is reasonably required for a full and fair disclosure of all matters related to the decision under appeal, as it contributes to the panel's understanding of the circumstances surrounding the appellant's request for a crisis supplement for shelter. The panel therefore admits this information as evidence pursuant to section 22(4) of the *Employment and Assistance Act*.

Part F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's decision to deny the appellant's request for a crisis supplement for shelter to pay his December 2022 rent was reasonably supported by the evidence or a reasonable application of the applicable legislation in the circumstances of the appellant.

Panel Decision

Section 59(1) sets out that a crisis supplement may only be provided if all the following eligibility criteria are met:

- The family unit is eligible for income assistance or hardship assistance and
- The need for the item is not expected or there is an unexpected expense and
- There are no resources available and
- Failure to obtain the item or meet the expense will lead to imminent danger to the appellant's physical health or a child being removed under the Child, Family and Community Service Act.

While the ministry found the appellant eligible for income assistance, they determined that the appellant did not meet the remaining 3 criteria.

The panel finds that the ministry reconsideration decision was not reasonably supported by the evidence.

Unexpected

The ministry stated that it is unable to determine whether the appellant's need for funds for rent was an unexpected expense or unexpectedly needed because the appellant has not indicated how long he has been without a roommate to share rental expenses.

The panel finds that there is sufficient evidence that the appellant has been without a roommate from November 2022 to the present day, and that it was unexpected that he was without a paying roommate in December: People had been viewing the place and his ad had over 800 views. Consequently, the panel finds that that the ministry was not reasonable when it denied the appellant a crisis supplement based on its assumption that his need for funds was not unexpected.

No resources

The ministry was not satisfied the appellant did not have the resources available to pay his December rent because according to its file the appellant had advised his December rent had been paid.

The panel finds that the ministry's determination is not reasonably supported by the evidence. According to the appellant, the landlord had taken the damage deposit to make up for the portion of December rent owing. The ministry submitted at the hearing that a damage deposit (or security deposit) is not considered an available resource. While the ministry reports the appellant stated he had paid his December rent the panel finds that this ministry report is not sufficiently supported by the evidence. There is no rent receipt on file and the appellant said he did not tell the ministry rent had been paid. Furthermore, the panel finds there is sufficient evidence that at the time the appellant applied for the crisis supplement he had no resources available; he had no job, his EI had run out and he had no funds to pay his bills. Further, as submitted by the ministry, the panel finds that a security deposit is not reasonably considered resources available for rent. At that time, he had also not received any income assistance for December, and he had no roommate to help pay for his rent.

Imminent threat to health and safety

The panel finds that the ministry was not reasonable when it determined that failure to provide the appellant a crisis supplement would result in imminent danger to his physical health because his December rent has been paid. As previously noted, the panel finds there is insufficient evidence that the appellant's December rent has been paid.

In addition, the panel notes that the ministry submitted that with the new evidence they would have found the appellant eligible.

Conclusion:

The panel finds that the ministry's decision to deny the appellant a crisis supplement for shelter to pay rent for December 2022 was not reasonably supported by the evidence. The ministry's reconsideration decision is rescinded, and the appellant is successful on appeal.

Employment and Assistance Regulation

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*.

(2) A crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made.

APPEAL NUMBER 2023-0027

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

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

Inge Morrissey

Signature of Chair

Date (Year/Month/Day)

2023/02/08

Print Name

Kenneth Smith

Signature of Member

Date (Year/Month/Day)

2023/02/08

Print Name

Margarita Papenbrock

Signature of Member

Date (Year/Month/Day)

2023/02/13