

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “ministry”) reconsideration decision (the “decision”) dated 28 February 2023. The ministry determined that the appellant was ineligible for a crisis supplement for rent.

Specifically, the ministry determined that the appellant was not eligible to receive income assistance for the month of February 2023, and that meant that he was not eligible to receive the crisis supplement for the month.

Part D – Relevant Legislation

Employment and Assistance Act (EAA) section 4.

Employment and Assistance Regulation (EAR) section 59.

Part E – Summary of Facts

Evidence at the time of reconsideration

As part of the application for reconsideration, the appellant submitted:

- 1) A statement from the appellant explaining his situation, stating that he and his spouse “are separated now”. He also states “my landlord has chosen to evict me before the end of this month. And I have no where else to go and MCFD will not give me my children back with no home to go to.” The appellant added that he “was forced to file for insolvency” and had given up his family vehicle.
- 2) Photos of injuries sustained by the appellant and a sink with blood stains;
- 3) A photo of an antibiotic prescription belonging to the appellant;
- 4) A bank statement belonging to the appellant for the period of December 30, 2022 to January 31, 2023;
- 5) An eviction notice dated February 3, 2023 which stated the appellant “must move out of the rental by” February 15, 2023. The notice also stated the appellant had failed to pay \$1,861 in rent;
- 6) A text message exchange, apparently with the landlord, who states “We will be enforcing our order of possession on February 15th”; and
- 7) Screenshots of an appointment with an on-line physician.

According to the Ministry’s decision, which is not disputed by the appellant, the following is a chronology of events:

The ministry advised the appellant that he was not eligible for a crisis supplement for rent on February 10, 2023.

The appellant initiated a Request for Reconsideration on February 15, 2023.

The ministry completed its decision on February 28, 2023.

In the Reconsideration decision, the ministry found that:

- 1) The appellant was not eligible to receive income assistance in February 2023, and therefore was “not eligible to receive any supplements”.
- 2) The appellant did not provide any information or evidence to support the need for rent money was “the result of an unexpected circumstance”.
- 3) The appellant did not provide information to enable the ministry to “establish that [the appellant] did not have any other resources to pay the rent”.
- 4) The appellant did not provide any evidence to support an eviction “such as a 10-day eviction notice”, and so the ministry could not conclude that the appellant’s life was in imminent danger.

The appellant submitted a Notice of Appeal on March 3, 2023, stating that he had “no money and no access to enough money to pay my rent and my landlord evicted me”.

Testimony at the hearing

The appellant’s witness, his spouse with whom he was now separated, spoke to the panel about the appellant’s current situation. They stated that they had separated from the appellant. They also said that appellant was not currently employed, had no income, and had been living off employment insurance (“EI”) and income assistance.

The appellant explained how he had come upon hard times and was now ineligible for EI as he has used up his eligible weeks of coverage. He received assistance for his electricity bills as a crisis supplement in February.

He explained that his living situation is difficult, and he needs shelter to reunite with his children, who are currently living elsewhere. He noted that he and his wife no longer live together.

He stated that he was not sure why he was ineligible for a crisis supplement for his rent payments, and that the system was “very confusing”.

The ministry explained the criteria needed for receiving a crisis supplement. The ministry reviewed the case management system regarding the appellant and confirmed that the appellant received a payment of \$1,275 on March 3, 2023, as income assistance for February 2023. This was confirmed again after clarification about the retroactive payment was requested by the panel.

The ministry also stated that the appellant had reported EI income of \$1,860 for the month of December 2022 and reported EI income of \$1,652 two times (for a total of \$3,304) in January 2023. The appellant stated that he had only reported \$1,652 once in January 2023. The ministry could not explain the difference but noted that the entries may have been duplicated.

The ministry stated that the amount of assistance paid to the appellant included that his children stayed with him part-time and was the “item six” rate. The ministry added that the appellant’s file was marked as having an overpayment amount.

The ministry also stated the appellant had received income assistance of \$2,311.91 in December 2022 and \$1,952.98 in January 2023. No payment had been received in

February 2023 until the payment (noted previously) on March 9, 2023 of \$1,275.00. The ministry said that he had also received a payment of \$1,375.00 for income assistance for the month of April.

The panel determined the additional information in the testimony provided by the appellant and the ministry is reasonably required for a full and fair disclosure of all matters related to the decision under appeal. The information is therefore admissible under section 22(4) of the *Employment and Assistance Act.*”

Part F – Reasons for Panel Decision

The issue on appeal is whether the ministry's reconsideration decision that determined the appellant was ineligible for a crisis supplement for rent (shelter) was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

Specifically, did the ministry reasonably determine that the appellant was ineligible for a crisis supplement because he did not meet the criteria?

Ministry position

In the decision, the ministry found that the appellant was not eligible for income assistance in February and was therefore ineligible for a crisis supplement. The ministry reviewed the appellant's file and determined that the appellant had not established "whether the need for rent money was the result of an unexpected circumstance".

The ministry also stated that the appellant had not explained or provided evidence to explain where his funds were going and found that the appellant had not provided any evidence which would show that he had no other resources to pay his rent.

The ministry also reviewed the requirement of imminent danger, stating that the appellant had failed to provide any evidence to verify this, "such as a 10-day eviction notice". The ministry found that they could not establish that there was imminent danger to the appellant if he did not receive his rent money.

The ministry found that the appellant was "not eligible to receive supplements", and he had not provided evidence to support either unexpected circumstances, other resources available, or the existence of imminent danger. The ministry concluded that "you are not eligible for a crisis supplement for rent".

Appellant's position

The appellant disputes the amount reported as income in January and states that he reported EI income of \$1,652 only one time.

The appellant states that he longer receives EI as he has "used up his weeks".

The appellant states that his wife is no longer living with him or contributing her half of the payments and this additional rental expense is unexpected.

The appellant states that he has no resources available and is living in debt.

He is concerned that he is at risk of homelessness due to his pending eviction.

Panel's reasons

Section 4 of the EAA states that income assistance or a crisis supplement may be provided to a family unit that is "eligible for it".

Sections 59 of the EAA provides more detailed requirements for a crisis supplement. These include:

- 1) they must be eligible for income assistance;
- 2) the expense must be unexpected;
- 3) there are no resources available; and,
- 4) there is imminent danger to the physical health of any person

In the decision dated February 28, 2023, the ministry concluded that the appellant was not eligible for income assistance in February 2023 and was therefore ineligible for a crisis supplement for the month.

During the hearing the ministry stated that the appellant had received income assistance for February 2023. The panel requested clarification regarding the payment made to the appellant. The ministry confirmed payment was made to the appellant on March 9, 2023. It is not clear to the panel as to the reason for the delayed payment or why it was made on March 9, 2023. However, the ministry confirmed several times that income assistance was paid for February. The panel relies on the evidence provided by the ministry at the hearing to make a finding of fact that the appellant was eligible for income assistance in February 2023

The ministry found that there was no evidence to support the finding that the expense was unexpected. The appellant states that his spouse and he are newly separated and that neither have been able to work for some time. The panel accepts that the testimony from the appellant and his spouse that he and his spouse are no longer co-habiting. As the appellant is now residing in his home alone, he is now responsible for the entire rent for his residence. In this case, the panel finds that the appellant no longer lives with this spouse and having to pay an additional half of rent for his home was unexpected for the appellant. The ministry was not reasonable in saying that there was no evidence of an unexpected expense.

The ministry found that there was no evidence to support the fact that no other resources were available. The appellant states that he had to give up his vehicle and was “forced to file for insolvency”. The appellant also provided his bank statement in his application which indicated that resources are limited. The appellant provided information about his insolvency, loss of vehicle, and provided a bank statement to show his limited resources to the ministry. The ministry did not dispute this evidence put forward by the appellant, and the panel notes that it does not appear that these factors were addressed in the decision. The appellant also indicated that he only reported one EI payment of \$1652 in January, not two. The panel finds that the appellant’s statement about insolvency, loss of vehicle, and his bank statement support the appellant’s argument that no resources are available. In addition, the ministry determined that the appellant was in fact eligible for assistance in February, but this amount was not paid until March, so the appellant did not have those funds available to him in February. The ministry was not reasonable in saying there was no evidence to support that no other resources were available.

The ministry found that the risk of imminent danger had not been explained by the appellant, and that he had failed to provide an eviction notice with his application. A review of the application indicates that a copy of an eviction notice is included, dated February 2, 2023, which would force an eviction on February 15, 2023. It names the appellant and his address. The panel finds that this evidence supports the fact that the appellant would be evicted from his home if he does not pay his rent.

The panel finds that the appellant has supported his application to the ministry with evidence to support that the need for a crisis supplement is unexpected, that no other resources may be available, and that an imminent danger, in this case homelessness, exists.

In this case and based on the evidence presented at the hearing and also initially provided by the appellant to the ministry, the panel is challenged to conclude that the ministry acted reasonably in determining the appellant was ineligible for a rental crisis supplement. In particular, evidence such as the receipt of income assistance for the month of February, the eviction notice, the bank statement, and the confusion relating to the appellant’s reported income add to the challenge.

The panel finds that, with the evidence provided both in the application and at the hearing, the ministry no longer applied the relevant regulations and legislation reasonably. The ministry’s reconsideration decision is no longer reasonably supported by the evidence. The panel rescinds the ministry’s decision. The appellant is successful in the appeal.

Schedule of Legislation

Employment and Assistance Act

Section 4

Income assistance and supplements

4. Subject to the regulations, the minister may provide income assistance or a supplement to or for a family unit that is eligible for it.

Employment and Assistance Regulation

Section 59

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.

(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) Repealed. [B.C. Reg. 248/2018]

(6) Repealed. [B.C. Reg. 248/2018]

(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

Robert McDowell

Signature of Chair

Date (Year/Month/Day)

2023/04/02

Print Name

Margarita Papenbrock

Signature of Member

Date (Year/Month/Day)

2023/04/02

Print Name

Maryam Majedi

Signature of Member

Date (Year/Month/Day)

2023/04/02