

Part C - Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated February 24, 2023 that determined the appellant was not eligible for a crisis supplement for shelter as per the Employment and Assistance Regulation, section 59.

Specifically, the ministry determined the appellant's need for a crisis supplement for shelter was not due to an unexpected circumstance and his physical health was not in imminent danger.

Part D - Relevant Legislation

Employment and Assistance Act (EAA), section 4

Employment and Assistance Regulation (EAR), section 59 and Schedule A sections 2 and 4

Part E – Summary of Facts**Relevant Evidence Before the Minister at Reconsideration**

Ministry records show:

The appellant is in a family of two and receives \$1310.91/month income assistance (\$710.00 support allowance, \$570.00 shelter allowance, and \$30.91 for a family bonus top up). In addition, he receives \$118.66 for a basic child tax credit and \$182.34 for a family bonus, neither of which are deducted from his income assistance. The appellant pays \$1550.00 in rent each month.

June 20, 2022

The ministry advised the appellant it can take several months for a Persons with Disabilities (PWD) application to be decided, that he may or may not be found eligible, and to base his living situation on his current income, not on what he may be eligible for in the future. The appellant advised he will be in an eviction situation soon, as his rent is above ministry rates. The ministry advised him to reconsider his living situation if he cannot afford to live where he is now. It suggested the appellant consider sharing rent with other people, applying for BC Housing, or moving to a community that is more affordable.

November 22, 2022

The appellant requested a \$1550.00 crisis supplement for November rent, stating his PWD denial was unexpected and he did not have enough assistance to cover the cost of rent. He had \$550.00 from November income assistance. He also stated he would be homeless if he did not receive this money. As well, the appellant stated that not receiving the crisis supplement would result in removal of his child by the Ministry of Child and Family Development (MCFD).

November 28, 2022 - The appellant submitted a letter from his landlord.

December 8, 2022 - The ministry reviewed the appellant's application for a crisis supplement.

December 12, 2022 - The ministry determined the appellant was not eligible for the supplement because he did not meet all the criteria. The ministry also stated the appellant's doctor had not approved the appellant's change of status to PWD.

Request for Reconsideration (February 10, 2023)

In the request for reconsideration, the appellant made notations on the ministry's original decision (the decision prior to reconsideration).

In the original decision, the ministry wrote that on December 12, 2022 the appellant advised the ministry he was in arrears \$270.00 for November and \$270.00 for December rent. The appellant wrote - *incorrect information, told to pay rent with the other assistance \$1280 + \$200.00 = \$1550.00.*

In the original decision where the ministry wrote that eligibility for a crisis supplement is based on four conditions and listed those four criteria the appellant provided the following:

1. The appellant added a check mark to the criteria of "a crisis supplement may be considered if the family unit is eligible for income assistance".
2. The appellant added "on October 25th or 26th "to the criteria of, "the need for the expense is unexpected". The appellant added an X to the ministry statement indicating that he had not identified an unexpected expense and that failing to be approved for the PWD designation is not unexpected.
3. The appellant added a check mark to the criteria of, "failure to obtain the item will result in imminent danger to the physical health of any one person in the family unit or the removal of a child under the *Child, Family and Community Service Act*".
4. The appellant added a check mark to the criteria of , "there are no alternate resources available to meet the expense".

The appellant also provided a written request for reconsideration where he stated:

- that he had a court hearing at the beginning of November. He was forced to represent himself, the MCFD was involved and there was a chance of child removal.
- he requested a crisis supplement for accommodation because of undue hardship. He was told to submit proof, which he did on November 28, 2022.
- on December 12, 2022 he was advised there were new requirements (ministry request to submit an eviction notice), and the ministry questioned why he had not used other assistance to pay rent. As well, the appellant states timelines were not met by the ministry.

Note from Ministry to Appellant (December 8, 2022)

The ministry stated it was reviewing the appellant's request for a crisis supplement, applied for in November for unpaid rent. It asked if the appellant's rent had been covered with funds he received on November 23, 2022 and if not, to submit an eviction notice and reply with why he was not able to cover the rent.

Note from Ministry to Appellant (no date) (date stamp -received at Service BC Office February 10, 2023)

The ministry asked the appellant to provide a letter from his landlord confirming the rental address, the appellant's name, amount of rent, rent outstanding and to confirm if a threat of eviction was present for unpaid rent. It also asked the appellant to contact the ministry if he needed more time, required assistance to obtain the documents, or had other reasons he was unable to provide the documents.

Rental Confirmation Letter from Strata & Property Manager to Appellant (November 26, 2022)

The manager stated they have tried to contact the appellant several times about his unpaid rent for November 2022, without success, and to finally hear from him on the 25th of the month is not adequate from the owner's point of view.

The manager also stated that rent needs to be consistently paid, on or before the first day of each month. They are fairly confident the appellant's rent has been late more often than it has been paid on time. The manager adds that this situation must be resolved to avoid a 30-Day Notice to end the appellant's tenancy for repeatedly paying the rent late.

The manager provided the following information to confirm the status of the rental:

Tenancy start date: June 1, 2020

Term details: month-to-month tenancy

Monthly rent: \$1,550.00 (November 2022 is not paid)

Security Deposit: \$775.00 paid prior to tenancy start date

The manager also stated the owner requires payment of the rental arrears immediately.

In addition, the manager stated, the owner has been much more considerate with the appellant's situation than most would be, and does not want to be forced to end the appellant's tenancy during these difficult times, but this means the appellant must come up with a permanent resolution for paying his rent on time each and every month going forward. The manager asked the appellant to advise them of his plans to remedy the rent arrears and confirm that the December 2022 rent will be paid on time.

Additional Information

Appellant

Notice of Appeal (March 17, 2023)

The appellant writes that the ministry advised him to submit a letter indicating rent outstanding. He obtained the letter from his landlord and submitted it to the ministry. Then the ministry asked why he didn't use the assistance from November to cover rent. Now he has an eviction notice. After he completed the terms to get the supplement, those terms changed.

Appellant Submission (April 4, 2023)

The appellant submitted a call log, listing the numerous attempts he made in communicating with the ministry, in 2022.

At the hearing, the appellant added information regarding the difficulties he had with retaining counsel for his court hearing regarding child custody. He stated if he's evicted he will most likely lose his child. He found it very stressful working with the justice system. Also, in working through the justice system, he incurred unexpected expenses, such as having to buy a printer to print documents and used his income assistance for these additional expenses.

The appellant added that he finds it unreasonable for the ministry to be asking him to use December's income assistance to pay for November rent, because then he will not have sufficient funds to pay December expenses, and the problem will continue.

As well, the appellant stated he has a disability, adding that he has a court date set for May 2023 regarding child custody.

Ministry

At the hearing, the ministry relied on its record. It also stated that the ministry defines "imminent" as a situation that is urgent.

Admissibility

The panel determined all the additional information is reasonably required for a full and fair disclosure of all matters related to the decision under appeal and therefore is 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 not eligible for a crisis supplement for shelter as per the EAR, section 59, 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 the appellant's need for a crisis supplement for shelter was not due to an unexpected circumstance and his physical health was not in imminent danger?

The ministry acknowledged that the appellant had no resources to pay his November rent.

Relevant sections of the legislation can be found in the Schedule of Legislation at the end of this decision.

Appellant Argument

The appellant argues he has met the four criteria for a crisis supplement:

1. He is eligible for income or disability assistance.
2. The need for the expense was unexpected.
3. Failure to obtain the item will result in imminent danger to the physical health of any one person in the family.
4. There are no alternate resources available to meet the expense.

The appellant also argues he was told by the ministry to submit proof of his rent situation, which he did on November 28, 2022.

On December 12, 2022, the appellant was advised there were new requirements (ministry request to submit an eviction notice), and the ministry questioned why he had not used other assistance to pay rent. As well, the appellant argues timelines were not met by ministry.

Ministry Argument

The ministry argues that the appellant was advised that PWD applications can take up to several months to adjudicate, he may or may not be found eligible and to plan his finances based on current assistance, rather than on what he might receive in the future.

Therefore, the ministry argues it was not satisfied that denial of the appellant's PWD application was an unexpected circumstance that led to him being unable to pay his rent.

The ministry also argues that the appellant has not provided any information or evidence to explain how his court hearing may have unexpectedly contributed to his inability to pay November rent.

In addition, the ministry argues the word "imminent" denotes a sense of urgency. While the appellant submitted a letter from his landlord that explains how much the appellant owes and warns about the possible consequences if the rent is not paid, the ministry is unable to establish that the appellant is facing an imminent eviction from this letter alone.

The ministry argues further that as the appellant has not submitted any evidence to show that he will be evicted if he does not pay the rent, such as a formal eviction notice, the ministry is unable to establish that his physical health will be in imminent danger if he does not receive the \$1550.00 for November rent.

The ministry concluded that as it was not satisfied that the appellant's need for the \$1550.00 rent was due to an unexpected circumstance, and his physical health is not in imminent danger, his request does not meet all the criteria under section 59 of the EAR, and he is not eligible for a crisis supplement for rent.

Analysis

Section 4, EAA - income assistance and supplements

Section 4 of the EAA states, subject to the regulations, the minister may provide income assistance or a supplement to or for a family unit that is eligible for it, up to the maximum amounts identified for a family unit of specified size and composition. Ministry records show the appellant receives \$1280.00 per month in shelter and support allowances.

Section 59, EAR - crisis supplement

Section 59 of the EAR states the minister may provide a crisis supplement for a family that is eligible for income assistance if the family requires the supplement to meet an unexpected expense and is unable to meet the expense because there are no resources available, and the minister considers that failure to meet the expense will result in imminent danger to the physical health of any person in the family, or removal of a child under the *Child, Family and Community Service Act*.

Unexpected Expense

The appellant argues his November rent expense was unexpected as he thought he would be receiving PWD benefits to cover his rent. At the hearing, the appellant stated that in working through the justice system, he incurred unexpected expenses, such as having to buy a printer to print documents. The panel finds that although the appellant may have incurred unexpected expenses in dealing with the justice system, his request was for a crisis supplement for shelter.

The panel notes the rental confirmation letter (November 26, 2022) shows the start date for the rental agreement as June 1, 2020 and the term details as month-to-month tenancy. The panel finds that regardless of the appellant's plan to cover his November rent, and unexpected expenses in dealing with the justice system, rent is not considered an unexpected expense. As per the rental confirmation letter, the appellant would have known he had to pay rent in November 2022, years in advance. Therefore, the panel finds the ministry reasonably determined that the appellant's November rent was not an unexpected expense.

Imminent Danger to Physical Health

The panel notes that although the ministry stated it defines imminent as a situation that is urgent, the EAR does not provide a definition for "imminent". The Merriam-Webster dictionary defines imminent as, "ready to take place or happening soon".

The appellant stated he has a disability and was stressed in dealing with the justice system, and in his Notice of Appeal, dated March 17, 2023, stated he "now has an eviction notice". However, becoming homeless is not, on its own, sufficient to meet the criterion of "imminent danger to physical health". The panel finds there is insufficient evidence to demonstrate that someone in the family unit would be in imminent physical danger if the crisis supplement for shelter was not issued. Therefore, the panel finds the ministry reasonably determined that the appellant or his family were not in imminent danger if he didn't receive the crisis supplement.

Removal of a Child under the Child, Family and Community Service Act

Although the appellant stated there was a possibility of a child being removed, in the request for reconsideration and at the hearing, the appellant confirmed there is a hearing date set for May 2023 to deal with child custody.

The panel notes that the ministry did not address the question of whether failure to meet the expense might result in removal of a child under the *Child, Family and Community*

Service Act, as per EAR 59(1)(b)(ii). The panel notes that, even if this were the case, other required criteria have not been met (i.e. unexpected expense and imminent danger).

Nevertheless, the panel finds as the child custody situation is not yet resolved, there is insufficient evidence to verify removal of a child if a crisis supplement for shelter was not issued.

Although the panel acknowledges the appellant's difficulties, the panel is bound by the legislation. The panel finds the ministry reasonably determined that the appellant does not meet the eligibility requirements for a crisis supplement for shelter, under section 59 of the EAR.

Conclusion

In conclusion, the panel finds the ministry's reconsideration decision that determined the appellant was not eligible for a crisis supplement for shelter as per the EAR, section 59, was reasonably supported by the evidence.

Specifically, the panel finds the ministry reasonably determined the appellant's need for a crisis supplement for shelter was not due to an unexpected circumstance and his physical health was not in imminent danger.

The appellant is not successful on appeal.

Schedule of Legislation

Employment and Assistance Act

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

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 ...

(4)A crisis supplement provided for ... shelter ... is subject to the following limitations:...

(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 ...

Schedule A

Income Assistance Rates

Monthly support allowance

2 ...

Item	Column 1 Family unit composition	Column 2 Age or status of applicant or recipient	Column 3 Amount of Support
... 4	Sole applicant/recipient and one or more dependent children	Applicant/recipient is under 65 years of age	\$710.00

Monthly shelter allowance

4 ...

Item	Column 1 Family Unit Size	Column 2 Minimum	Column 3 Maximum
... 2	2 persons	\$150	\$570

APPEAL NUMBER 2023-0079

20Part 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

Connie Simonsen

Signature of Chair

Date (Year/Month/Day)

2023/04/05

Print Name

Simon Clews

Signature of Member

Date (Year/Month/Day)

2023/04/07

Print Name

Mimi Chang

Signature of Member

Date (Year/Month/Day)

2023/04/06