

### **Part C – Decision Under Appeal**

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Poverty Reduction (“Ministry”) dated July 28, 2023, in which the Ministry denied the Appellant a crisis supplement for shelter.

The Ministry determined that, while the Appellant did not have resources to meet the expense of cumulative court filing fees:

- the court filing fees were not unexpected and other expenses the Appellant identified were either not unexpected or the costs could not be determined, and
- failure to meet the expense would not result in imminent risk of physical harm.

### **Part D – Relevant Legislation**

Employment and Assistance Regulation (“Regulation”), section 59  
Employment and Assistance Act (“Act”), section 24(2)  
Administrative Tribunals Act, section 40

The full text of the legislation is provided in the Schedule of Legislation after the Reasons.

**Part E – Summary of Facts**

The hearing took place in person, with the Ministry attending by telephone. The Appellant attended with an interpreter.

**Evidence Before the Ministry at Reconsideration:**

The Appeal Record is 626 pages. The Panel does not list every document that was submitted as evidence, but has reviewed the documents, and provides a summary of the evidence.

The Appellant is a recipient of income assistance under the Act. She receives \$983.50 each month, which includes \$560 for a support allowance and \$375 for a shelter allowance. Her monthly rent is \$375.

The Appellant applied for a crisis supplement for shelter on May 23, 2023 because she was required to pay accumulated filing fees for three appeals that she had filed in the Court of Appeal, arising out of eviction from a residence in 2021 and subsequent proceedings at the Residential Tenancy Branch. The Appellant had applied for orders that no court filing fees would be payable in each appeal (“no fee status” orders), but in May 2023, the Court of Appeal dismissed her applications. The Appellant paid the fees, in the approximate amount of \$1,200, that month. As a result, she did not have money left to pay her rent.

The Appellant also had a painful hand injury and suffered a fall. She felt that neither condition was properly diagnosed and treated by doctors, and she had increased medical expenses as a result. The Appellant did not provide any receipts or amounts for those expenses. She listed other expenses of two months’ hydro, mobile phone, Wi-Fi, student fees and rent, totalling \$1,290.

**Additional Evidence:**

The Panel is authorized to consider evidence in addition to the information the Ministry had at the time of the reconsideration decision if it is reasonably required for a full and fair disclosure of all matters related to the decision under appeal. Under section 40 of the Administrative Tribunals Act, the Panel may receive and accept information that it considers relevant, necessary, and appropriate, except that the Panel may exclude anything unduly repetitious.

The Appellant submitted extensive additional evidence, set out below. The Ministry did not object to the admission of any of the additional oral and written evidence, including video and audio files, submitted by the Appellant.

Appellant Submission #1:

The Appellant provided a five page written submission consisting of two emails to the Ministry setting out complaints about her interaction with Ministry employees when she tried to submit documents for the reconsideration.

Admissibility:

While most of the content of the emails is not relevant to the issue of whether the Appellant is eligible for a crisis supplement for shelter, the Panel admits the emails as evidence under section 22(4) of the Act, only as they may be relevant to whether the Ministry had all necessary information at the time of the reconsideration.

Appellant Submission #2 ("Submission #2"):

The Appellant provided a USB flash drive with folders and files containing 7,882 pages of documents (including photographs), four audio files and eight videos. The documents fall into the following categories:

- Pleadings, transcripts, and court documents in Court of Appeal proceedings, including the three appeals in which the Appellant applied for no fee status.
- Letters and emails between the Appellant and the Court of Appeal Registry between March and May 2023:
  - The Appellant opposed scheduling of her applications for hearing at the same time and complained of “underground courts and continuous airborne commands in specific justices’ hands”.
  - The Court of Appeal Registry confirmed that the Court of Appeal ordered that all three applications for “no fee status” must be heard at the same time, together with a fourth application to reactivate an appeal that had been moved to the inactive list.
  - The Court of Appeal Registry fixed a hearing date in May 2023 over the Appellant’s objections.
- Emails and letters to the Court of Appeal and the Court of Appeal Registry after May 2023 about ongoing Court of Appeal applications.
- Invoices, receipts, debit transaction records and statement of fees paid (prepared by the Court Registry), attached as exhibits to the Appellant’s “Affidavit for Money”, showing payment of court filing fees:
  - a total amount of \$1,720, of which \$320 was paid on April 11, 2023, \$40 was paid on May 4, 2023, and \$1,360 was paid on May 17, 2023, for filing court documents between November 15, 2022 and May 10, 2023

- a total of \$320 for applications to vary the May 2023 Court of Appeal orders refusing the applications for no fee status and dismissing a fourth appeal the Appellant had filed, paid by the Appellant on May 17, 2023.
- Audio recordings of portions of the Residential Tenancy Branch teleconference hearing in 2021.
- Miscellaneous photographs, audio and video recordings, apparently relating to eviction from a residence in 2021.
- Audio recordings in a language other than English, subject unknown.
- Documents relating to a complaint by the Appellant to the Health Professions Review Board, about events occurring in May 2021.

Admissibility:

The Panel admits the following documents as reasonably required for a full and fair disclosure of matters related to the decision under appeal:

- Letters and emails between the Appellant and the Court of Appeal Registry between March and May 2023, which confirm the scheduling of the “no fee status” applications on the same day in May 2023, and the Appellant’s efforts to avoid that outcome.
- Invoices, receipts, debit transactions and statement of fees paid, attached as exhibits to the Appellant’s “Affidavit for Money” showing payment of court fees of \$1,360 following the dismissal of the applications for no fee status, and \$320 for the application to vary those orders, in May 2023.

The Panel finds that, except for the documents specifically noted above as admissible, the rest of the information in Appellant Submission #2 is not admissible under section 22(4) of the Act.

The Panel recognizes that the details of the tenancy dispute, the hearing at the Residential Tenancy Branch and the court proceedings that followed, and the Appellant’s concerns about treatment by health care professionals, are important to the Appellant. However, the additional documents submitted are not reasonably required to determine issues on this appeal of the Ministry’s decision about an application for a crisis supplement for shelter in May 2023.

At the hearing, the Appellant did not refer to any of the documents included in Submission #2, some of which are duplicates of documents that appear in the Appeal Record. The extra copies are not admitted as evidence.

The Court of Appeal decision about the “no fee status” applications, which is included in the Appeal Record and was provided to the Ministry at reconsideration, confirms that the accumulated court filing fees would be payable when the Court made that decision, in May 2023. The Panel does not need details of all the steps in the litigation, or additional details of the Appellant’s disputes, because it is not necessary for the Panel to judge the reasonableness of the Appellant’s claims and complaints against her former landlord, the Residential Tenancy Branch, the arbitrator, the court registry staff, and the judiciary. The question is whether the cumulative expense of the court fees was unexpected, which will be discussed below in the Panel Reasons. Therefore, the Panel does not admit additional pleadings, court documents and transcripts not contained in the Appeal Record and provided to the Ministry at reconsideration.

Letters and emails to the Court of Appeal after May 2023 are not admitted because they are not relevant to the Appellant’s application in May 2023 for a crisis supplement for shelter because of unexpected expenses in May 2023. The Appellant’s correspondence to the Court of Appeal is directed mainly at her complaints of deceit, corruption and unfair treatment which she says resulted in scheduling her future applications to vary the May 2023 order for hearing on the same date. Those complaints, and the Court’s replies, are not relevant to the issues on this appeal.

Audio and video recordings apparently relating to the eviction from a residence in 2021 are not admitted as evidence because they are not necessary for the Panel to determine the issues on this appeal. The Panel cannot know the content of the audio recordings in a language other than English, and therefore those recordings are not admitted as evidence.

With respect to the complaint to the Health Care Professions Review Board, the Appellant provided information to the Ministry about her medical condition in May 2023, when she applied for the crisis supplement, and at reconsideration. Her complaints to the Review Board arise from treatment, or lack of treatment, alleged to have occurred in 2021. The Review Board complaint documents are not necessary to determine the issues in the appeal of a decision about a crisis supplement for shelter in May 2023.

#### Evidence at the Hearing:

At the hearing, the Appellant stated:

- She did not expect that the court would combine her applications and require payment of all the accumulated filing fees at once.
- If she had been given time to pay the fees in installments, over time, she would have been able to manage.

- She had to pay the fees all at once, otherwise she would not have been allowed to continue with her application to vary the orders dismissing her applications for no fee status.
- She paid the fees with the income assistance she received from the Ministry, and some additional money she borrowed, and as a result she had no money left to pay her rent.
- She did not get an eviction notice from her landlord, but the landlord told her that if she did not pay the rent she would have to leave.
- When she was evicted from a previous residence, she had to go to a shelter, where she felt unsafe, and got sick.
- After she had to spend all her money to pay the court fees, a worker at a community organization loaned her the money to pay her rent. She sold some items she owned and repaid the worker the next month.
- She is up to date on her rent now because her rent is her first priority, but she is accumulating other debt to pay her expenses.

Admissibility:

The Panel finds that the additional oral evidence of the Appellant relates to whether the expense was unexpected and whether she was at imminent risk of physical harm. Therefore, the Panel finds that the additional oral evidence is reasonably required to determine the issues on the appeal and is admissible under section 22(4) of the Act.

**Part F – Reasons for Panel Decision**

The issue on appeal is whether the Ministry's decision that the Appellant was not eligible for a crisis supplement for shelter is reasonably supported by the evidence or is a reasonable application of the legislation in the Appellant's circumstances.

**Appellant's Position:**

The Appellant says that the need to pay the accumulated court fees in all the appeals all at once was unexpected. It was not her fault that she had all these court proceedings – the situation “fell on her”. The court registry combined her four cases so they were all decided at the same time. While she might have managed to pay the court fees out of her resources if they were payable over time, she had to pay them all at once so she could go ahead with her appeal of the decision to dismiss her applications for no fee status.

The Appellant also says that she did not have the resources to pay the expense – she borrowed money to pay the court fees and her rent, and while she has repaid the loan for the rent, she is incurring other debt on credit cards to pay her other living expenses.

She maintains that, if she did not pay her rent, she would end up in a shelter, where she would not be safe, and might get sick, which was her experience after she was evicted from a previous residence. While her landlord did not give her an eviction notice, they had told her that, if she did not pay the rent, she would be evicted. Therefore, she says that there was an imminent risk to her physical health.

**Ministry Position:**

In the reconsideration decision, the Ministry accepted that the Appellant, a recipient of income assistance, did not have the resources to pay the court fees following the judge's order in May 2023. However, the Ministry argued that the court fees were not an unexpected expense, because the Appellant had been accruing the fees over a two year period. While the Appellant said she had medical expenses, there was no information about what those costs might be. The other expenses the Appellant listed were expected monthly expenses, such as Wi-Fi, Hydro, phone bills and student fees. The Ministry also maintained that, as the Appellant had not received an eviction notice, there was no imminent risk to her physical health. Therefore, the Ministry says that the Appellant is not eligible for a crisis supplement for shelter under section 59 of the Regulation.

At the hearing, the Ministry representative said that they would concede that the court fees were an unexpected expense, because they were all ordered to be paid at once.

However, they said that the Appellant did have the resources to pay her rent, as she borrowed the money and then was able to repay the loan. They continue to maintain that, without an eviction notice, there was no way for them to determine that there was an imminent risk to the Appellant's physical health.

**Panel Reasons:**

The Panel finds that the Ministry's reconsideration decision, determining that the Appellant was not eligible to receive a crisis supplement for shelter, was reasonable.

The Appellant asked for a crisis supplement for rent because, in May 2023, she was required to pay accumulated court filing fees of \$1,360, for 3 Court of Appeal proceedings. She had applied for orders that no court filing fees would be payable, but those applications were dismissed. She had to pay the whole amount so she could file further applications to vary the orders dismissing the application for no fee status. As a result of paying the fees, she did not have funds to pay her rent. She was able to borrow money to pay the rent, and then to repay the loan by selling some of her possessions.

Under the Regulation, the Ministry may provide the Appellant with a crisis supplement for shelter if her request meets the following criteria:

- She needs the supplement to meet an unexpected expense;
- She has no resources to meet the expense; and
- Failure to meet the expense will result in imminent danger to her physical health.

While the Ministry's position at the appeal hearing was different from the reconsideration decision on two points (whether the expense was unexpected, and whether the Appellant had resources to meet the expense), the Ministry's position about the outcome of the appeal was unchanged. The Ministry continued to maintain that the Appellant was not eligible to receive a crisis supplement because there was no imminent danger to her physical health.

The Panel may consider the change in position indicated by the Ministry representative at the hearing, but for the appeal, the Panel must decide if the reconsideration decision was reasonable.

Unexpected Expenses:

1. Court filing fees:



At reconsideration, the Ministry determined that the court filing fees were not an unexpected expense, because the court proceedings had been going on since at least November 2021. At the hearing, the Ministry representative indicated that they were prepared to concede that the court filing fees were an unexpected expense, explaining that it had not been clear before that the fees all came due at once.

It is clear from the Court of Appeal decision in May 2023, a copy of which is in the Appeal Record, that the Appellant was not required to pay the fees until her applications for no fee status were dismissed. However, the Panel finds that it was reasonable for the Ministry to determine that the court filing fees were not an unexpected expense. The Appellant was aware, each time she filed court documents, that the fees were accumulating, and that, if her application for no fee status was refused, she would have to pay the fees. The Panel notes that the Appellant had already had one application for no fee status refused in December 2021, in a Supreme Court action she commenced arising out of the same dispute with the former landlord. The Appellant argued that she had not expected the Court Registry to set down all three applications for no fee status to be heard at the same time, so she did not expect to have to pay the fees all at once if her applications were refused. Nevertheless, the Panel finds that, although the Appellant hoped she would not have to pay the fees, and if she did, that she might pay them over time, the expense itself was not unexpected.

## 2. Other Expenses:

The Appellant told the Ministry that she had medical expenses because of injuries to her hand and her leg, but she did not say how much those expenses were. At the hearing, the Appellant argued only that the court filing fees were an unexpected expense, and there was no further information about medical expenses. The Panel finds that the Ministry reasonably determined that it could not determine costs associated with any medical expenses. The Panel finds that there is insufficient evidence to determine that the Appellant had unexpected medical expenses.

The Appellant also told the Ministry about expenses for Wi-Fi, hydro, phone, and student fees. The Ministry determined that these were not unexpected expenses, which the Panel would find to be reasonable. However, the Panel understands that the Appellant was explaining what her other living expenses were, not claiming these to be unexpected expenses that prompted her to apply for the crisis supplement, and she did not make that argument at the hearing.

## Available Resources:

The Ministry agreed that the Appellant had no resources to meet the expense. At the hearing, the Ministry argued that, as the Appellant had paid her rent, and then repaid the loan, she had the resources to meet that expense.

The Panel finds that the Appellant did not have resources to pay the court filing fees, and as a result did not have resources to pay her rent. The court filing fees were more than the monthly income assistance. The Panel notes the finding of the Court of Appeal in the decision about the applications for no fee status, that the Appellant's payment of court fees would cause undue hardship. The Appellant had to borrow money to pay her rent, and while she has repaid that loan, and has paid her rent since then, she has gone into debt for other basic living expenses. Being able to go into debt is not the same as having available resources. Therefore, the Panel finds that the Ministry reasonably determined that the Appellant did not have resources to meet the expense.

#### Imminent Risk of Physical Harm:

The Panel finds that the Appellant was not at imminent risk of physical harm if she did not meet the expense of the court filing fees. "Imminent" means that something is about to occur. The Appellant's landlord told her that, if she did not pay the rent she would be evicted. However, the Appellant has not received an eviction notice for failing to pay rent. The Panel acknowledges the Appellant's fears about where she might have to stay if she was evicted. However, if the Appellant did not pay her rent, the landlord would have to follow the lawful process for eviction – a verbal warning would not be enough. Until the landlord began the eviction process under the Residential Tenancy Act, the Appellant would not be at imminent risk of eviction and possible homelessness. Therefore, the Panel finds that the Ministry reasonably determined that it could not establish that the Appellant was at imminent risk of physical harm.

#### **Conclusion:**

The Panel finds that the Ministry's determination that the Appellant was not eligible for a crisis supplement for shelter is reasonably supported by the evidence. The Ministry was reasonable in determining that:

- the Appellant did not have the resources to meet the expense of the court filing fees but:
- the court filing fees were not an unexpected expense, and
- failing to meet the expense would not result in imminent risk of physical harm.

The Ministry was also reasonable in determining that other expenses the Appellant identified were either not unexpected or the costs could not be determined.

The Panel confirms the reconsideration decision. The Appellant is not successful in the appeal.

Schedule of Legislation

Employment and Assistance Regulation

**Crisis supplement**

s. 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, the maximum set out in section 4 of Schedule A and any supplements provided under section 54.3 [*pre-natal shelter supplement*] or Division 7 [*Housing Stability Supplement*] of Part 5 of this regulation, or

(B) the maximum set out in Table 1 of Schedule D, the maximum set out in Table 2 of Schedule D and any supplements provided under section 54.3 or Division 7 of Part 5 of this regulation,

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.

### Employment and Assistance Act

#### **Panels of the tribunal to conduct appeals**

s. 22 (4) A panel may consider evidence that is not part of the record as the panel considers is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

### Administrative Tribunals Act

#### **Information admissible in tribunal proceedings**

**40** (1) The tribunal may receive and accept information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law.

(2) Despite subsection (1), the tribunal may exclude anything unduly repetitious.

(3) Nothing is admissible before the tribunal that is inadmissible in a court because of a privilege under the law of evidence.

(4) Nothing in subsection (1) overrides the provisions of any Act expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence.

APPEAL NUMBER 2023-0241

**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  
Susan Ferguson

Signature of Chair

Date (Year/Month/Day)  
2023/11/16

Print Name  
Mimi Chang

Signature of Member

Date (Year/Month/Day)  
2023/11/16

Print Name  
Robert McDowell

Signature of Member

Date (Year/Month/Day)  
2023/11/16