

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated October 6, 2023, which determined the appellant was not eligible for a for a crisis supplement for natural gas.

Specifically, the ministry was not satisfied:

- that the need to pay the gas bill was due to unexpected circumstances; and
- that the appellant does not have the resources to pay her gas bill.

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act, section 5

Employment and Assistance for Persons with Disabilities Regulation, section 57

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

Part E – Summary of Facts

The hearing took place by video conference. The ministry did not attend the hearing. After confirming the ministry was notified, the hearing proceeded under section 86(b) of the Employment and Assistance Regulation.

Summary of Relevant EvidenceEvidence Before the Ministry at Reconsideration

- The appellant is a sole recipient of disability assistance, receiving \$1535.50 per month for disability assistance and supplements (\$983.50 support allowance, \$500.00 shelter allowance, and \$52.00 transportation supplement).
- The appellant pays \$580.00 for rent, \$100.00 for hydro and \$35.00 for phone expenses. Each month. \$48.00 is sent to BC Hydro, by the ministry, on the appellant's behalf.
- In May 2022 the appellant's natural gas service was disconnected due to nonpayment, but was reconnected after 10 days. Since then the appellant made three payments to the gas company - \$600.00 in May to have services reconnected, \$600.00 in June and the last payment was issued in September 2022.
- The appellant's natural gas service was again disconnected on April 6, 2023.
- On April 28, 2023 the appellant requested a crisis supplement for natural gas stating that her gas bill is so far behind that the gas company disconnected her service.

Request for Reconsideration (September 19, 2023)**Letter to the Appellant from the Gas Company (September 20, 2023) - summary***First Notice*

The writer states the appellant's account is in default and has been assigned for recovery. The writer adds that they have been instructed to report this account to Canada's credit reporting agencies as a bad debt collection item. However, they will hold reporting of this account for 30 days to provide the appellant time to resolve it.

Letter to the Ministry from the Appellant (September 21, 2023) - summary

The appellant states she has been attempting to get help with her gas bill. She states her income is very low and her ability to be employed is non-existent. This coupled with the high cost of living has put her in a very detrimental position. She adds that she has a brain injury and other injuries that make it very difficult to articulate her position.

As well, the appellant states that the first time she applied for help through the ministry, she was approved, although nobody seems to have her approval on file. She attempted to receive guidance through multiple advocacy agencies, but found only one number working out of the list of advocates given to her. And, with this contact, the response is slow and appointments are not set for months.

The appellant also states she has been out of pocket for the removal of her flooring. And adds that a disabled person should not be left to remove all their own flooring, which is making them sick.

She also states she incurred travel expenses as she had to leave her home (due to illness) from March to December 2022. She is also incurring ongoing fees due to more litigation brought by her co-op as retaliation for her Human Rights complaint.

The appellant states she is unable to get caught up on her gas bill. She just recovered from a three-week long illness and she needs to reopen her gas account before the cold sets in. She is left with no heat or hot water going into the cold months. The appellant states she is in imminent danger and does not have the mental capacity, with her brain injury to navigate this situation further.

Natural Gas Bill (no date)

Last bill

\$1,619.70 – due on April 25, 2023

Next bill – May 2, 2023

Last payment \$228.00 – on September 29, 2022

Additional Information received after the Reconsideration Decision

Letter to the Appeal Tribunal from a Member of the Legislative Assembly (November 9, 2023) – written by a Constituency Assistant (summary)

The writer states they are reaching out on behalf of the appellant, who wants to submit an appeal and who is in desperate need of help from the ministry. The writer adds that the appellant has a significant disability, which has made it difficult for her to navigate certain processes like the Tribunal.

As well, the writer states the appellant is unfortunately living without heat in her home. She has been unable to pay her gas bills as a result of not being eligible for a program, which would see her gas bills covered.

Notice of Appeal (November 9, 2023) - summary

The appellant states the judge's ruling on her legal case did not award her any monetary rewards, and she had to pay legal fees out of pocket to stay in her unit. All that was granted was that she would remain in her unit.

At the hearing, the appellant stated she discovered she had a bad allergy to dust and so replacing the carpet was absolutely necessary. She clarified that she lived in her townhome the whole time her floor was being replaced, but also spent some time with family. She added that since March 2023, she has had no heat or hot water but can cook.

She added that when she won her settlement (to replace her flooring), the judge did not provide any details as to how this would occur and she spent approximately \$2000.00 to remove the carpet. This cost was the main reason she was not able to pay her gas bill. The appellant also stated that she knew the gas company would disconnect her service if she didn't pay the bill, but had no way of paying it. It was "not a mystery". She thought she could pay the gas bill as time went on, but just couldn't do it as other more urgent expenses needed to be paid.

Part F – Reasons for Panel Decision

Issue on Appeal

The issue on appeal is whether the ministry's reconsideration decision 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 not eligible for a crisis supplement for natural gas because the ministry was not satisfied that:

- the need to pay the gas bill was due to unexpected circumstances; and
- the appellant does not have the resources to pay her gas bill?

The ministry is satisfied that the appellant's physical health will be in imminent danger if she does not pay the gas bill, as she will be without hot water and heat.

The panel notes all the above criteria must be met.

Appellant's Position

The appellant argues she has been attempting to get help with her gas bill. Her income is very low and she has been out of pocket for the removal of all her flooring in 2022. In addition, she is incurring ongoing fees due to litigation brought by her co-op.

The appellant adds she just recovered from a three-week long illness and she needs to reopen her gas account before the cold sets in and she is left with no heat or hot water going into the cold months. She argues she is in imminent danger

The appellant states she thought she could pay the gas bill as time went on, but just couldn't do it as other more urgent expenses needed to be paid.

Ministry's Position

The ministry states it is unclear why it took nine months, from March until December, to replace the flooring. It is also unclear why if the appellant paid \$2000.00 for the carpet removal between September and December, how this would have affected her gas bill in March 2023.

unexpected expense

The ministry argues that the appellant has not demonstrated a recent unexpected expense or event that prevented her from making payments to her gas company account

for the past months. A monthly utility cost is not an unexpected expense, nor is the requirement to pay for monthly utility usage an unexpected event, or occurrence but is considered a regular and expected monthly expense.

resources

The ministry argues further that it is unclear why, if the appellant won the case, that her legal bills would not have been paid, and she could not use that money to pay the gas company. Although the appellant explained that she is still in litigation with her co-op board, there is no information as to what extent, if any, those legal fees have contributed towards her inability to pay her gas bill.

The ministry argues that without more information, such as whether the appellant received any money to reimburse her legal fees or the fees to replace the flooring, and clarification on how much the legal fees were and when she had to pay them, the ministry is unable to establish that she does not have the resources to pay her gas bill.

Panel Analysis

Section 5, Act - disability assistance and supplements

Section 5 states the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it. The panel notes, ministry records state the appellant is a sole recipient of disability assistance.

Section 57, Regulation – crisis supplement

Section 57(1) states the minister may provide a crisis supplement for a family that is eligible for disability assistance if,

- a person requires the supplement to meet an unexpected expense, and
- is unable to meet the expense because there are no resources available.

unexpected expense

The panel finds the expense to pay the outstanding gas bill cannot be considered unexpected. Ministry records show that in May 2022 the appellant's gas service was disconnected due to nonpayment and since then the appellant's last payment to the gas company was in September 2022. At the hearing, the appellant stated she knew her gas would be cut off if she didn't pay her bill.

Therefore, the panel finds the ministry reasonably determined that the gas bill was not an unexpected expense.

no resources

However, the panel finds the appellant was unable to meet the expense as no resources were available.

In the Notice of Appeal and at the hearing, the appellant clarified that she paid approximately \$2000.00 to remove her flooring, out of pocket.

As well, although the ministry argued that it did not have sufficient information concerning reimbursement of legal fees or a possible monetary award from her court case to replace the flooring, the appellant clarified that she had to pay legal fees out of pocket and wasn't awarded any other monetary reward. All that was granted was that she would remain in her unit.

Therefore, the panel finds the ministry's determination - that it was not satisfied that there were no resources available, now unreasonable with the new evidence.

Conclusion

As all the criteria under section 57(1) of the Regulation must be met, the panel finds the ministry decision which determined that the appellant is not entitled to a crisis supplement for natural gas, was reasonably supported by the evidence.

The panel empathizes with the appellant's difficult situation, but the panel is bound by the legislation, as is the ministry.

The appellant is not successful on appeal.

Schedule of Legislation

Employment and Assistance for Persons with Disabilities Act

Disability assistance and supplements

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

Employment and Assistance for Persons with Disabilities Regulation

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,

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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

Connie Simonsen

Signature of Chair

Date (Year/Month/Day)

2023/11/26

Print Name

Susanne Dahlin

Signature of Member

Date (Year/Month/Day)

2023/11/26

Print Name

Rick Bizarro

Signature of Member

Date (Year/Month/Day)

2023/11/26