

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the Ministry) reconsideration decision dated November 6, 2023 (the Decision), which found that the Appellant did not qualify for a crisis supplement for shelter (the Supplement).

While it was satisfied that the Appellant did not have the funds to pay his outstanding rent, the Ministry found that the expense was not unexpected. In addition, the Ministry was not satisfied that failure to provide the funds would result in imminent danger to the Appellant's physical health.

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (the Act), section 5, Schedule A sections 2(1) and 4(2)

Employment and Assistance for Persons with Disabilities Regulation (the Regulation), section 57

Employment and Assistance Regulation, section 85(2)

A full text of the relevant legislation is provided in the Schedule of Legislation after the Reasons in Part F below

Part E – Summary of Facts

The Appellant is a sole recipient of disability assistance.

According to information provided by the Ministry in the Decision:

- The Appellant receives \$1,535.50 per month for disability assistance and supplements, which comprises \$983.50 for a support allowance, \$500 for a shelter allowance, and \$52 for supplements. In addition, \$20 is deducted from the Appellant's disability assistance for a repayment to the ministry;
- On August 2, 2023, the Ministry received a crisis supplement for shelter request from the Appellant. The Appellant indicated that his Landlord had increased his rent to \$575 per month which was unexpected, and represented a rent increase of \$75 over and above a recent \$125 rent increase. The Appellant also indicated that he might be evicted and left homeless;
- On August 4, 2023, the Appellant told the Ministry that he would provide verification of the rent increase;
- On September 18, 2023, the Appellant made a second request for a crisis supplement for shelter. The Appellant said his bank had frozen his account on August 18, or 19, 2023 "*because of a cheque (he) had deposited (to his) account from (his employer)*". The Appellant also said he had "*received the notice of closure*" on September 5, 2023, and that he "*could not stop (his) assistance cheque from going directly into the account*". Without money to pay his rent he would be homeless, and he had already received an eviction notice. The ministry asked the Appellant to provide a copy of the eviction notice and the notice from the bank about his bank account closure;
- On September 27, 2023, the Appellant provided the Ministry with a letter, dated September 14, 2023, from the Residential Tenancy Branch indicating he had received an application for dispute resolution from the Appellant's Landlord, and a hearing had been set by the Residential Tenancy Branch for September 26, 2023 (the Notice of Proceeding Letter);
- On September 29, 2023, the Appellant submitted a copy of a two-month notice to end tenancy form which indicated that the Appellant was required to move out of his home by August 31, 2023. The Ministry contacted the Appellant's Landlord who told the Ministry that the Appellant had paid the July and September rent, but that the Landlord intended to continue to pursue eviction of the Appellant "*due to some (bylaw infraction) tickets from (the municipality) and dumpster fees*". The Landlord also told the Ministry that the Appellant had not paid the October rent, nor would the Landlord accept the October rent because they were pursuing eviction. The Ministry

also told the Appellant that it was unable to process his request for a crisis supplement for shelter because eviction was imminent;

- On October 3, 2023, the Appellant submitted a third crisis supplement for shelter. The Ministry told the Appellant that the Landlord had called the Ministry to ask if any of the rent owing could be paid directly to the Landlord because the Landlord had not received any rent payments from the Appellant for seven months, and that, as a result, the Appellant owed them \$6,300;
- On October 4, 2023, the Appellant, upon being contacted by the Ministry, said he had asked for a crisis supplement for shelter in September 2023 because his bank had closed his account and *"(kept) the money for that month"*. The Appellant also told the Ministry that his rent was \$900 per month, but he hadn't paid any rent since April 2023 because of a disagreement with his Landlord. The Appellant said he had *"received a rental receipt from a family member but the person now stated (the Appellant) did not pay rent"*. The Ministry asked the Appellant to provide *"an updated shelter form"* because the Appellant said the Landlord *"was willing to let (him) stay"*. The Appellant was also asked by the Ministry *"to submit any arbitration agreement or decision from the Rental Tenancy Branch showing the amount of arrears"*;
- On October 6, 2023, the Appellant submitted a shelter form (the Shelter Form) indicating that he pays \$600 per month for rent and had been living at that rented dwelling since April 1, 2023;
- On October 10, 2023, the Appellant submitted a copy of a ten-day notice to end tenancy for unpaid rent, dated September 30, 2023 (the Ten-Day Notice Form). The Ten-day Notice said that the Appellant must move out by October 9, 2023 for failing to pay \$5,400 in rent which had been due on October 4, 2023; and,
- On October 12, 2023, the Ministry denied the Appellant's request for a crisis supplement for shelter because the Appellant had said he hadn't paid rent since April 2023 due to a disagreement with his Landlord, and therefore the Ministry did not consider it an unexpected expense.

The evidence the Ministry had when it made the Decision included:

- The Appellant's request for reconsideration (the Reconsideration Request), dated October 18, 2023, in which the Appellant said:
 - He was asking for a reconsideration of the Ministry's October 12, 2023 decision *"due to facts not being taken into consideration (in) the first service request for crisis emergency funding"*;
 - With regard to the bank statement identified below, *"You can see that funds for September for \$1515.50 were deposited, yet not released by bank. This was highly*

unexpected. The bank took my money to complete their investigation?? July, Aug, Sept, Oct without a bank account nor any funding which led to the bank denying any GST/HST funding and this closing the account ... without cause ... I am losing my home ..."

- Eight pages of "Deposit Account History" statements showing bank transactions processed between July 1, 2023 and October 12, 2023 (the Bank Statements);
- A one-page "Shelter Form", completed by the Appellant and signed on October 3, 2023 (the Shelter Form). The Shelter Form is "for ministry information only", and includes the Appellant's birth date, address, rental start date (April 1, 2023), monthly rent amount (\$600), security deposits required (totalling \$550), and the Landlord's name;
- A two-page Ten-Day Notice Form, completed and signed by the Landlord on September 30, 2023, which includes the name and address of the Appellant and the Landlord, says that tenancy is being ended because the Appellant has failed to pay rent in the amount of \$5,400, which was due on October 4, 2023 following written notice on September 30, 2023;
- A one-page Notice of Proceeding Letter;
- A six-page Residential Tenancy Branch Digital Evidence Details Form, completed and signed by the Landlord on September 13, 2023 (the Evidence Form). The Evidence Form lists electronic evidence in the form of photos and videos that were apparently submitted with the Evidence Form, the Landlord's explanation of why he is terminating the tenancy, and references to attached "witness statements and evidence"; and,
- The first two pages of a four-page Residential Tenancy Branch "Two Month Notice to End Tenancy For Landlord's Use of Property or Because the Tenant Does Not Qualify for Subsidized Rental Unit" form address to the Appellant and completed and signed by the Landlord on June 27, 2023. The form says that the Appellant must move out of the rental unit by August 31, 2023.

Additional Evidence After Reconsideration

In the notice of appeal the Appellant writes "The Landlord had made a request to carry on there so long as rent was paid. The ministry had stated that eviction was imminent and I disagree. The ministry was wrong as I did not have access to the funds like they said I did."

Evidence Presented at the Hearing

Neither party attended the hearing. After confirming that both parties received notice of the date and time of the hearing at least two business days in advance, as required under

section 85(2) of the Employment and Assistance Regulation, the Panel proceeded with the hearing and made its decision, as explained below, based on the written evidence contained in the appeal record.

Admissibility of Additional Evidence

Section 22(4) of the *Employment and Assistance Act* says that a panel can consider evidence that is not part of the record when the Ministry made its decision. But first the panel must consider if the new information is relevant to the decision. If a panel determines that any new evidence can be admitted, it must decide if the decision was reasonable considering the new information.

New evidence included in the notice of appeal is:

- The Appellant's statement that the Landlord was prepared to allow the Appellant to remain in his rental accommodation if the rent owing was paid.

The Panel admits this evidence as it might reasonably be required for a full and fair disclosure of all matter relating to the appeal, but assigns it no weight as no substantiating evidence has been presented to indicate that the Landlord made this concession, or that the Appellant has paid the rent owing; and,

- The Appellant's statement that he did not have access to the funds necessary to pay his rent.

The Panel admits this evidence as it might reasonably be required for a full and fair disclosure of all matters relating to the appeal, but assigns it no weight as the available evidence indicates that the Appellant received a shelter allowance in the amount of \$500 for the month of September 2023 (i.e., the month in which the application or request for the Supplement was made).

The available evidence is the August 23, 2023 deposit totalling \$1,515.50 included in the Bank Statements which form part of the appeal record. The Panel notes that this amount is identified as coming from the "*Province of BC*", and was deposited on the date and in the total amount that the Appellant is entitled to receive every month for disability assistance and supplements, after deducting his monthly repayment amount of \$20. The Panel also notes that this deposit has not been subsequently reversed by the Appellant's bank, as there is no offsetting debit showing on the Bank Statements between the date of deposit and the date the Appellant's account was closed (September 6, 2023).

Part F – Reasons for Panel Decision

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

Appellant's Position

The Appellant's position is that he needs the Supplement because his shelter cost was unexpected and he didn't have access to the funds necessary to pay his rent for the month of September 2023.

Ministry's Position

The Ministry has determined that the Appellant received the maximum shelter funds in each month from April 2023 through November, 2023. The Ministry is also not satisfied that the closure of the Appellant's bank account affected his access to his September 2023 income assistance, as his bank statement shows a deposit from the Ministry on August 23, 2023, of \$1,515.50. The ministry is also not satisfied that failure to provide the Appellant with the Supplement would result in an imminent danger to his physical health.

Panel Decision

The eligibility requirements for a crisis supplement for a person with disabilities are provided in section 57(1) of the Regulation. Section 57 says that a crisis supplement may be provided by the Ministry to a person with disabilities for shelter if the following conditions apply:

- The family unit must need the supplement to meet an unexpected expense;
- The family unit must be unable to meet an unexpected expense because there are no resources otherwise available to it; *and*,
- The minister must be satisfied that failure to meet the expense will result in imminent danger to the physical health of any person in the family unit.

If all of these conditions apply, section 57(2) says that the shelter supplement can only be provided for the calendar month in which the application or request for the supplement is made, and section 57(4) specifies the maximum amount to which the family unit is entitled.

The Appellant is a sole recipient of disability assistance, therefore he is the only member of the family unit.

In the decision, the Ministry determined that two of the criteria in section 57(1) had not been met: the expense was not unexpected, and no imminent danger to the Appellant's physical health would result if he didn't receive the Supplement.

As to Whether the Supplement is Required to Meet an Unexpected Expense

The Shelter Form says that the Appellant has been renting his home since April 1, 2023, and that his monthly rent amount is \$600. In addition, the Panel notes that the Appellant received a September 2023 shelter allowance amount. According to section 4(2) of Schedule A of the Regulation, this amount is intended to be applied towards a recipient's shelter costs.

Because the Appellant's rent cost cannot reasonably be considered unexpected, the Panel finds that the Ministry reasonably determined that the first of the criteria set out in section 57(1) of the regulation has not been met.

As to Whether the Appellant is Unable to Meet the Expense Because there are No Resources Available

In the Decision, the Ministry said it was satisfied that the Appellant does not have the funds to pay his outstanding rent, so this criterion is not at issue in the appeal.

As to Whether Failure to Meet the Expense Will Result in Imminent Danger to the Physical Health of the Appellant

Because all criteria in section 57(1) must be met, the third criterion (imminent danger to the Appellant's physical health) does not need to be considered by the Ministry. In the Decision, the Ministry determined that this criterion had not been met. The Panel notes that the Appellant has argued that he will be homeless if he is evicted, but no evidence has been presented to indicate that he has been evicted and is now homeless. In addition, the Panel notes that the available evidence suggests that the Appellant owed the Landlord \$5,400 at the end of September 2023, which significantly exceeds the amount of the Supplement he would have been eligible for, if the Ministry had determined that the Appellant had qualified for it (\$500 for the month of September 2023 only).

Conclusion

The Panel finds that the Ministry's Decision, which determined that the Appellant did not qualify for a Supplement was reasonably supported by the evidence and was a reasonable application of the legislation in the Appellant's circumstances.

The Decision is confirmed and the Appellant's appeal is not successful.

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 ... if

(a) the family unit or a person in the family unit requires the supplement to meet an unexpected expense ... and is unable to meet the expense ... 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 ...

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

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

(b) ... 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 ... , 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 ...

Schedule A

Disability Assistance Rates

Monthly support allowance

2(1) A monthly support allowance for the purpose of section 1 (a) is the sum of
 (a) the amount set out in Column 3 of the following table for a family unit described in Column 1 of an applicant or a recipient described in Column 2 ...

Item	Column 1 Family unit composition	Column 2 Age or status of applicant or recipient	Column 3 Amount (\$)
1	Sole applicant / recipient and no dependent children	Applicant / recipient is a person with disabilities	\$983.50

Monthly shelter allowance

4(2) The monthly shelter allowance for a family unit ... is the greater of
 (a) the minimum set out in the following table for the family unit, and
 (b) the lesser of
 (i) the family unit's actual shelter costs, and
 (ii) the maximum set out in the following table for the family unit.

Item	Column 1 Family Unit Size	Column 2 Minimum	Column 3 Maximum
1	1 person	\$75	\$500

EMPLOYMENT AND ASSISTANCE REGULATION

Time period for scheduling and conducting hearing

85(2) The chair of the tribunal must notify the parties of the date, time and place of a hearing ... at least 2 business days before the hearing is to commence.

APPEAL NUMBER 2023-0351

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

Simon Clews

Signature of Chair

Date (Year/Month/Day)

2023/11/30

Print Name

Bill Farr

Signature of Member

Date (Year/Month/Day)

2023/11/30

Print Name

Linda Pierre

Signature of Member

Date (Year/Month/Day)

2023/11/30