

### Part C – Decision Under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Poverty Reduction (the ministry) dated November 17, 2023, which held that the appellant’s request for a crisis supplement for shelter to pay outstanding rent to avoid eviction does not meet all the criteria set out in section 59 of the Employment and Assistance Regulation (the Regulation). The ministry found that:

- rent is not an unexpected expense, and it would not be unexpected that failing to pay rent would result in an eviction from the appellant’s home; and
- children being out of school for the summer months is not unexpected, nor is regular car maintenance costs such as replacing mufflers and brakes.

The ministry was satisfied that the appellant has no resources to pay her outstanding rent to avoid eviction. The ministry was also satisfied that failure to provide the appellant with funds to avoid eviction could result in imminent danger to her and her family’s physical health or a child being removed under the *Child, Family and Community Service Act* if she becomes homeless because of being evicted. The ministry noted that the maximum supplement would be equal to the support and shelter rate for the appellant’s family size, which is \$1405.

### Part D – Relevant Legislation

Employment and Assistance Regulation section 59

This section of the legislation can be found at the end of the decision.

## Part E – Summary of Facts

From the ministry file:

- The appellant is a family unit of 2 in receipt of income assistance. She receives \$1405 per month for income assistance. This amount includes \$710 for a support allowance, and \$695 for a shelter allowance. In addition, she receives \$710 Canada Child Benefit from Service Canada that does not impact her income assistance.
- She has been residing at her residence since July 1, 2021. Her rent is currently \$2000 per month.
- On October 26, 2022, the ministry provided the appellant with a crisis supplement for shelter to avoid eviction for failing to pay \$3600 rent. The appellant stated at that time that she had fallen behind as a result of making a payment plan with her landlord to pay July rent in payments over four months and was unable to keep up with the payments, and she had to pay for a towing fee and car repairs.
- On October 25, 2023, she requested a crisis supplement for shelter. She provided a 10 Day Notice to End Tenancy for failing to pay \$6000 due on October 1, 2023. She advised the ministry her car kept breaking down during August and September. Further her child had been with her full time over the summer, and she could not get proper employment. Also, she and her child had been ill for three weeks and on antibiotics. She had \$850 in her account and would be receiving \$385 income assistance that day which she would be putting toward rent, but she would like as much help toward the \$6000 as possible.

A Notice to End Tenancy dated October 24, 2023 includes the following information:

- The appellant has to move out by November 4, 2023.
- The reason for ending the tenancy is failure to pay rent in the amount of \$6000 (due on October 1, 2023 [at the hearing the appellant confirmed that the landlord had written 2024 by mistake])

The appellant's request for reconsideration dated November 2, 2023 included the following information:

- Looking for work that suits my daughter's school schedule as I do not have appropriate childcare outside of school hours.
- July-Aug (Summer break) Full-time with daughter (zero support from her father – time or money). Have appointment with Family Justice Counsel November 7th at 9:30 am.
- Aug – car break down (muffler & brakes)

- Sept – was expecting to get back to work when [child] back in school but got sick with sinusitis & ear infections (both of us). Course of antibiotics and nasal spray (almost 3 weeks)..”

At the hearing the appellant reported she had received a second notice of eviction on November 21, 2023. She was able to borrow \$5000 from her family which covered most of her rent arrears – she still owes \$400. She will have to pay back some of the borrowed funds. She is still requesting a crisis supplement for \$1405 which is the maximum amount in her case because she needs money for food and other things. But she would like whatever the ministry would contribute. The landlord has not evicted her.

She clarified she had a verbal agreement with her landlord that she would pay him \$1800 rent per month and do yard work on the property for \$200 per month. The landlord has now increased the rent to \$1863. She has looked for other suitable housing options but there is nothing available. The child's father does not contribute any money, and she has to take him to court. She is currently not working. But she is looking for work and funded training programs to help cover rent. While she was ill in September, she lost income from occasional work as hairdresser. She and her child had been ill previously – they had had COVID three times. This was a different illness.

The ministry explained the reconsideration decision and added that their decision may have been different had they had more information about the appellant's rent arrears and that she owed only \$400. When asked to clarify how the lower amount could have changed the decision, the ministry said that the information might have explained how the lower amount was unexpected.

#### Admissibility of New Information

The panel finds that the information provided by the appellant on appeal is reasonably required for a full and fair disclosure of all matters related to the decision under appeal, as it contributes to the panel's understanding of the circumstances surrounding the appellant's request for a crisis supplement for shelter. There was no objection to the new information. The panel therefore admits this information as evidence pursuant to section 22(4) of the *Employment and Assistance Act*.

**Part F – Reasons for Panel Decision**

The issue in this appeal is whether the ministry's decision to deny the appellant a crisis supplement for shelter was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

Section 59(1) sets out the criteria all of which the appellant must meet before the ministry may provide a crisis supplement. One of these requirements is that the appellant requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed. This is the only requirement at issue in this appeal because the ministry was satisfied the other requirements were met.

The appellant's position is that she should be eligible for a crisis supplement for shelter because unexpected circumstances prevented her from being able to pay all of her rent.

The ministry position is that rent is not an unexpected expense, and it would not be unexpected that failing to pay rent for 3 months would result in eviction. Children being out of school for the summer months is not unexpected. Regular car maintenance costs such as replacing mufflers and brakes are also not unexpected. In any event, the ministry is limited to providing a housing supplement amount equal to the support and housing rate for an assistance recipient, in this case \$1405. The appellant is not eligible for a supplement for her outstanding rent.

**The Majority Panel Reasons**

The majority of the panel finds it unreasonable to deny a crisis supplement for shelter based on a blanket statement that rent is an expected expense. Whether a shelter expense is expected is dependent on the circumstances of a particular situation. Considering the legislation as remedial and interpreting it as such, this section is interpreted in these circumstances to be whether the appellant was unexpectedly unable to pay all of her rent.

In the reconsideration decision, the ministry indicated that if someone failed to pay rent for 3 months, their eviction would be expected. The new evidence provided on appeal clarifies the appellant's circumstances on this point. The appellant was not evicted, though now had another eviction notice. She was able to find funds, some borrowed, to pay toward rent. She continued to ask for whatever the ministry could contribute to the meet the shortfall, pay back funds borrowed toward rent, and meet her expenses. The majority finds this evidence indicates the amount at issue is not three months rent, but a much

smaller amount. Given the new evidence, the ministry decision with respect to three months accrued rent does not apply to the appellant's circumstances. The majority panel notes the ministry comment that, had all the information about amount been known at the time, the decision might have been different.

There is still the issue of whether the appellant was unexpectedly unable to pay all of her rent in her actual circumstances. The majority finds that ongoing car repairs and children's school schedules are expected circumstances. The Ministry was reasonable in saying these factors should not be considered as unexpectedly affecting payment toward rent. The question for the majority was then whether there was evidence to find that the appellant was unexpectedly unable to pay her rent balance for other reasons.

The appellant argued that there were two other circumstances that unexpectedly affected her inability to pay. First, her ex-husband did not pay child support and she was taking him to court. (The majority panel notes that child support is exempt income in assistance calculations.) Second, she was unexpectedly very ill for three weeks in September and did not have expected income from her part-time work. This work was usual when her child returned to school. The reconsideration decision did not address either of these points and the ministry did not object to their inclusion in the record.

The majority panel accepts that the appellant is taking her ex-husband to court for child support. The majority also accepts the record and testimony from the appellant about how funds from her part-time work would have contributed to her October rent payment. The panel finds that illness in September led to an unexpected shortfall in income that would have been put towards expenses in October. The majority finds that, had these amounts been received as expected, the appellant would have been able to pay her rent balance. The ministry was not reasonable when it determined the appellant did not require a supplement to meet an unexpected expense. The majority acknowledges that these two unexpected factors would not have been sufficient evidence to explain an unexpected shelter expense of \$6000. However, the circumstances of the appellant have been clarified, and the amount is much less.

#### Conclusion:

The majority of the panel finds that the ministry's decision to deny the appellant a crisis supplement for shelter to pay rental arrears was not reasonably supported by the evidence or a reasonable application of the legislation in the circumstances of the appellant. The ministry's reconsideration decision is rescinded, and the appellant is successful on appeal.

### **Reasons of Dissenting Panel Member**

While the ministry's reasons could have been expressed more elaborately, the dissenting panel member finds the ministry still was reasonable when it denied the crisis supplement for shelter. Rent is not an unexpected expense. In the appellant's case, several months of arrears had been accumulating, and the appellant would have been aware they were accumulating each month when she did not pay or only paid a portion of her rent.

The dissenting panel member notes that evidence that the appellant has lost income because of illness is inconsistent and insufficient: The appellant had continually been receiving the same amount of income assistance and stated at the hearing she was not working; but she also stated she had lost income due to her illness. The dissenting panel member also notes that schools are expected to be closed in July and August, and that there is no evidence that the appellant's muffler and brake replacement were unexpected.

### **Relevant Legislation**

#### **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
- (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 56.2 [*pre-natal shelter supplement*] or Division 8 [*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 56.2 or Division 8 of Part 5 of this regulation,

as applicable, for a family unit that matches the family unit, and

(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. 1, 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.

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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

**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  
Inge Morrissey (dissenting member)

Signature of Chair	Date (Year/Month/Day) 2023/12/20
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Print Name  
Margarita Papenbrock

Signature of Member	Date (Year/Month/Day) 2023/12/18
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Print Name  
David Handelman

Signature of Member	Date (Year/Month/Day) 2023/12/18
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