

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 January 11, 2024, which held that the appellant's request for a crisis supplement for home repairs does not meet all required the criteria set out in section 57 of the Employment and Assistance for Persons with Disabilities Regulation (the Regulation). The ministry was satisfied that the appellant has no resources to repair the floors and walls, however, it was not satisfied that

- the appellant's need for repair of floors and walls is due to unexpected circumstances; and that
- the appellant's health will be in imminent danger if he does not repair the damages.

Part D – Relevant Legislation

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

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

Part E – Summary of Facts

Information before the ministry at reconsideration

From the ministry file:

- The appellant is a sole recipient of disability assistance.

On November 12, 2023 the appellant completed a form for a crisis supplement for home repairs. He wrote:

- "Drainage was blocked in my kitchen and bathroom, and the floor and walls were damaged in some places."
- The estimated cost for the repairs is \$1000.
- When prompted whether the situation that led to his request was unexpected, he selected "no".
- When asked whether there is an imminent danger to his physical health he wrote, "I would be living in the cold (without heat) and without basic hygiene."

In a letter dated November 29, 2023 the appellant reported, in part:

- The leakage of the ceiling and walls started in spring 2023. It started on the walls, with some dampness on the floor and ceiling, followed by a small amount of rainwater seeping in. Cracks and bulges began to gradually appear and expanded in summer and autumn 2023.
- He is a disabled senior and can no longer be employed.
- BC Hydro sent someone to check on energy savings and saw that the furnace was turned off and the room temperature was 3°C.
- A bill from FortisBC shows that his house is not heated due to cracked walls.
- He needs protection from the winter cold.
- His current housing condition is no longer sufficient to maintain his "basic life and hygiene".

In his request for reconsideration dated January 1, 2024 the appellant wrote:

- "I need this repair to protect my health and quality of life, and even possibly in cold climates from being frostbitten (freezing to death)."

With his requests for reconsideration the appellant submitted a copy of his Fortis BC bill and pictures of cracked walls, a damaged ceiling and floor, 2 sinks and a garburator, a switch that is in "off" position and says "furnace", and of temperature gauges showing temperatures of 8, 12.5 and 12 degrees Celsius. He commented:

- "Since there is no heating charge, the temperature of my room is almost the same as the outside this winter."
- "The kitchen sink [is] clogged and grinder not working."

- “The bathroom sink was broken (due to loss of my hand strength a year ago) and blocked.”
- “My bedroom ceiling is leaking (water leaks near electric panels are dangerous).”
- “The furnace has been shut down due to cracked walls and leaks since this April.”

The appellant submitted a FortisBC bill that shows:

- His energy use in November 2022 was almost 4 times higher than in November 2023.
- His energy consumption in September 2022 was similar to the one in September 2023, and his October 2022 consumption was similar to the one in October 2023.

New Information

The appellant submitted a Notice of Appeal dated January 14, 2024. He wrote that

- he pays rent in the amount of \$1093.97, and does not have a mortgage payment as reported by the ministry.
- The ministry’s decision does not mention why it did not consider the sink blockages in the kitchen (“the garbage shredder is not working”) and in the washroom (“the electric toothbrush fell due to hand loss of strength which caused the sink to crack”). Because the ministry did not consider these, they should pay the “sink maintenance fee”.

On January 18, 2024 the appellant provided a written submission where he stated:

- He “did not request assistance from the ministry during warmer weather as the damage did not pose a health or life-threatening risk. It is only in the cold winter when the bedroom temperature sometimes drops to around 0°C at night that the climate becomes “is due to unexpected” [sic].” The ministry needs to consider both the process and the outcome. If the process is not unexpected, it doesn't mean the outcome is not unexpected. For homeless individuals, shelters are provided by the government during severe cold weather (unexpected occurrences).”
- He fears freezing or starving to death in his sleep.
- “The attribute of being unexpected is not determined by time.”
- The house is a mobile home. This factory-manufactured product has a thin layer of plastic panels on the exterior walls which can be easily blown open by the wind, and the interior walls are supported by fixed wooden panels. There is an empty space between the interior and exterior walls without any insulation. When the interior walls are damaged, cold air from outside can directly enter his bedroom.
- Heating expenses are not covered by his current benefits. Even if the walls are repaired, the appellant can only adjust the room temperature higher at night and lower during the day to ensure the minimum standard of “not being in danger of the cold”.
- The harm of cold weather to the appellant’s health “is not only imminent but has already become a reality. Two days ago, on the evening of January 16th, [the appellant] suffered

an "unexpected" cold snap, resulting in frostbite on [his] right hand, a respiratory infection, and swollen submandibular lymph nodes..."

- An occupational therapist conducted a home visit on December 6, 2023. They arranged for a social worker and community health nurse to visit the appellant to assist in resolving issues with water and wall cracks and health management.
- A social worker contacted him on January 9, 2024, to schedule another home visit.
- A nurse visited on December 14, 2023. After seeing his situation, she recommended moving to a senior home, but knowing the applicant couldn't afford it, she applied for a Lifeline device. This device automatically dials 911 if the appellant is inactive for an extended period. The nurse also advised the appellant to stay active at night to avoid "can't wake up in sleep".
- A nurse visited the appellant's house on January 5, 2024. She noticed sewage in the kitchen and bathroom sinks, making bathing impossible, and the hygiene conditions were extremely poor. She arranged for weekly baths at a senior home and contacted a social worker again to promptly address the appellant's housing issues.

With the above submission the appellant provided copies of the following emails:

- In an email dated December 6, 2023, an occupational therapist writes that
 - they have sent a referral to a physiotherapist and a social worker who will reach out to the appellant.
 - They had asked the team leader to assign the appellant to a community health nurse who will be his case manager.
- In an email dated January 9, 2024, a social worker is
 - asking the appellant for more information on what he would like help with.
- In an email dated January 15, 2024, a Lifeline coordinator is
 - setting up an appointment with the appellant.

On February 4, 2024 the appellant provided copies of the following emails:

- In an email dated January 18, 2024
 - the appellant's medical clinic confirms a "phone call visit appointment" for January 30, 2024.
- In an email dated January 30, 2024 the appellant writes that
 - he did not receive a call for his appointment from the clinic and is asking whether he should wait for the call or cancel it.
- An email from the clinic to the appellant dated February 2, 2024 says
 - "hydrocortisone 1%". No further information is provided.
- In an email to the Employment and Assistance Appeal Tribunal dated February 4, 2024 the appellant writes that
 - his doctor prescribed medication for his frost bite.

At the hearing the appellant made the following statements:

- The reconsideration decision did not reflect his concerns, did not take them seriously, and was not based on facts. He believes he meets all criteria of section 57.
- He rents his home and has no mortgage.
- He has been living there since June 2022. His rent has increased twice.
- He never had a pet.
- His health has not been affected by the water leak that happened in 2023.
- His health collapsed suddenly; he has a blood clot in his brain and ear caused by COVID medication.
- The danger to his health happened in October and November 2023 when the weather and his bedroom became extremely cold.
- His primary concern is the danger to his health brought on by cold temperatures. He suffers from the cold because his home is in disrepair.
- He is not able to do the repairs himself.
- He did not turn on the heat in November 2023 because he needed to save money.
- The sanitary conditions of his home are poor. To live under such conditions, especially as a senior, is risky.
- His bathroom sink got blocked because he dropped his electric toothbrush in the sink.
- His kitchen sink is out of use because small pieces of metal fell into the garburator.
- The only sink that works is in the washroom; this is where he gets his drinking water from. He purchased new sinks and brought them home to do the repair work himself but could not do it because he was lacking the necessary strength to exchange the broken sinks for the new ones.
- The visiting health nurse was worried and insisted he visits the local health center each week.
- To a question from the panel the appellant responded that he would use the requested \$1000 to repair all damages. He does not know the exact costs but he will be able to deal with the repairs if he is given the \$1000.
- To questions from the ministry the appellant replied that
 - the landlord never managed to take care of the repairs. The interior of his home is not the "strata's" responsibility.
 - He does not have tenant insurance - he has never been asked to take out such a policy.
- He will consider the ministry's suggestions.

The ministry summarized the reconsideration decision and reported:

- They have a tenancy agreement on file that identifies the name of the appellant's landlord. The appellant's monthly rent includes water, sewage disposal, garbage collection, recycling, kitchen scraps collection, recreation facilities, laundry, and parking.
- The ministry can assist with hydro and gas costs.
- They can provide the appellant with a community integration support specialist who can help with shelter costs and with finding a safe accommodation.

- The ministry's toll-free number to call for help is 1 866 866 0800.
- The jurisdiction that applies to the appellant's repair issues is the Residential Tenancy Act and the Manufactured Home Park Tenancy Act.

The ministry suggested the appellant should approach the landlord to resolve the repair issues, and if the landlord ignores his request, to contact the Landlord Tenancy Branch.

Admissibility of New Information

The panel finds that the information provided by the appellant and the ministry on appeal and at the hearing 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 home repairs. 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 home repairs was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

Section 57(1) sets out several criteria, all of which the appellant must meet before the ministry may provide a crisis supplement. One criterion is that the appellant requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed. Another criterion is that failure to obtain the item or meet the expense will lead to imminent danger to the appellant's physical health.

Appellant's Position

The appellant's position is that he should be eligible for a crisis supplement for home repairs because he meets all requirements of section 57. His primary concern is the danger to his health brought on by cold temperatures. He suffers from the cold because his home is in disrepair. His health has not been affected by the earlier water leak but by the cold weather in October and November when his bedroom became extremely cold. In winter his bedroom temperature drops to 0°C at night, which he considers unexpected. In January his health suffered due to an unexpected cold snap. He did not request assistance from the ministry earlier because the damage did not pose a health risk then. He did not turn on the heat because he needed to save money. Even if the walls were in good repair, the appellant would only adjust the temperature to a minimal degree so that his health is not endangered.

Also, the sanitary condition of his home is poor. To live under such conditions, especially as a senior, is risky. The ministry's decision did not consider the sink blockages in the kitchen and in the bathroom and should therefore pay for sink repairs.

Ministry Position

The ministry position is that they are not satisfied that the appellant's need for home repairs is due to unexpected circumstances, as the leak started in the spring, and therefore is no longer unexpected. Without more information or evidence, the ministry is also unable to establish that the appellant's physical health will be in imminent danger if he does not repair the floors and walls. The word "imminent" denotes a sense of urgency, and the appellant has not provided any evidence to indicate his physical health would be in urgent danger without the requested repairs. The appellant explained that he does not have heat, but also indicated that his furnace is turned off. Therefore, the ministry was satisfied that the appellant will not be in danger of the cold if he turns on his furnace.

Error in Citation

While the ministry summarized the applicable legislation correctly in the body of their decision, the panel notes that there are errors contained in section 57(4) as it is quoted in the attached Appendix B:

“Section 57 (4) A crisis supplement provided for food, shelter **or repair of floors and walls** is subject to the following limitations: ...

(c) if **for repair of floors and walls, the maximum amount that maybe provided in the 12 month period preceding the date of application for the crisis supplement is \$110 for each person in the family unit.** [emphasis added]”

The panel notes that repairs of floor and walls are not explicitly set out in section 57.

Panel Decision

The panel finds the ministry was reasonable when it denied the crisis supplement for home repairs.

The panel finds that there is not enough evidence that the need to repair walls, floors, and two sinks is unexpected. The appellant does not supply enough evidence why these problems are unexpected. For example, there is no information on the state of repair of the mobile home when the appellant moved in in 2022, which would give us an idea of what it was like before the various damages began to show themselves. According to the appellant’s submissions, to him, the only unexpected occurrence is the cold winter temperature. The panel finds that there is no evidence that 2023/2024 winter temperatures were significantly below the BC average.

While the ministry did not address the issues with the two sinks, the panel finds that there is not enough evidence that the blockage of these sinks was unexpected. The appellant did not provide evidence to explain why the blockage was unexpected but only stated that the bathroom sink was out of order for over a year because he had dropped an electric toothbrush into it due to weakness in this hand. While the panel empathizes with the appellant, we find that it is not unexpected that a person with a weak grip will drop items. Furthermore, the appellant has been aware of the blockage of the bathroom sink for a long time, and therefore it cannot be considered unexpected. Regarding the kitchen sink - it is not clear when the garburator was damaged and how metal debris happened to fall into it and cause a blocked sink. Consequently, the panel finds there is not sufficient evidence that the blockage of the kitchen sink was unexpected.

While the appellant emphasizes that living in an unheated home poses an imminent risk to his health, the panel cannot find a causal link between the imminent danger to the appellant’s health and the \$1000 requested for repairs: The appellant has not listed the furnace as an item that needs repair, and the ministry stated it could help with gas bills.

The panel notes that according to the ministry's testimony at the hearing the appellant rents the mobile home – he is not the owner. The jurisdiction that applies to the appellant's repair issues is the Residential Tenancy Act and the Manufactured Home Park Tenancy Act. The appellant should approach the landlord to resolve the repair issues, and if the landlord ignores his request, contact the Landlord Tenancy Branch.

Conclusion:

The panel finds that the ministry's analysis could have been more comprehensive. However, the panel finds that the ministry's decision to deny the appellant a crisis supplement for home repairs was reasonably supported by the evidence and a reasonable application of the legislation in the circumstances of the appellant. Even though the appellant finds himself in a difficult situation, he does not meet all the required criteria of section 57 of the Regulation. The ministry's reconsideration decision is confirmed, and the appellant is not successful on appeal.

Relevant Legislation

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 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 No

Legislative Authority for the Decision:

Employment and Assistance Act

Section 24(1)(a) and Section 24(1)(b)

Section 24(2)(a) or Section 24(2)(b)

Part H – Signatures

Print Name

Inge Morrissey

Signature of Chair

Date (Year/Month/Day)

2023/02/12

Print Name

Warren Fox

Signature of Member

Date (Year/Month/Day)

2024/02/15

Print Name

Richard Franklin

Signature of Member

Date (Year/Month/Day)

2024/02/13