

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

Under appeal is the Reconsideration Decision of the Ministry of Social Development and Poverty Reduction (the “Ministry”) dated July 16, 2024 denying a crisis supplement to pay the Appellant’s rent.

The basis for the denial was that the Ministry found the Appellant did not provide sufficient information to establish that the rent for the month of July 2024 was unexpected.

### **Part D – Relevant Legislation**

This decision cites:

*Employment and Assistance for Persons with Disabilities Act* (the “Act”):

Section 5

and

*Employment and Assistance for Persons with Disabilities Regulation* (the “Regulation”):

Section 57(1)

(Text of the above is attached at the end of the decision)

**Part E – Summary of Facts**

## Hearing Proceeding

The hearing was held on August 12, 2024 as a written hearing.

## Background and Relevant Evidence

2024-June-4: The Appellant received a crisis supplement for shelter of \$1,100 due to moving expenses and unexpected low hours of work.

2024-July-4: The Appellant requested a crisis supplement for rent, reporting that she works with Door Dash and Instacart and did not get as many hours of work over the last month as she expected. The Appellant also said that her husband does not have a job and employment opportunities for him are less than she expected, due to English being a barrier. The Appellant said she requires \$1,100 to pay rent and submitted an eviction notice showing she will be evicted by July 10, 2024 if she did not pay the \$1,100 for rent by June 30, 2024.

2024-July-4: The Ministry reviewed the Appellant's request for a crisis supplement for rent and determined that she was not eligible for the supplement because she did not meet all of the criteria. The Ministry called the Landlord and there was not an answer. The Ministry then called the Landlord shown on the Shelter Information Form. The Landlord stated that the Appellant had been late for the last two months with their rent. The Landlord also said that he was not going to evict the Appellant and would work with them on the rent. As a result, the Ministry found that the Appellant did not meet the criteria of Section 59(1)(b) as there was no danger of homelessness. Section 59(1)(b) criteria requires that if the expense is not met, there will be imminent physical danger. The Ministry also found that the Appellant's need to pay rent is not unexpected, as work hours would be expected to fluctuate. The Ministry noted that the Appellant received a crisis supplement for shelter in June for June rent for a similar reason.

2024-July-11: The Appellant submitted a Request for Reconsideration and wrote:  
*Discussed with the agent, he states that the rent (for July) has to be paying before July 12 according to the Notice of Eviction. Furthermore, the agent has given us 2 options for the following rental period payment, which payments have to be ontime everytime and need to pay CAD 150 as a penalty for the late July payment. Or moving out on the July 17, 2024.*

*Please reply us before July 12 as the Notice of Eviction dated on that day, and the agent is very strict, which he will not allow us to use the laundry and Internet if no payment yet.*

2024-July-16: The Ministry completed its review of the Request for Reconsideration and denied the Appellant's request on the basis that the Appellant had not provided sufficient information to determine that the rent was unexpected.

### Appellant Submissions

The Appellant's Notice of Appeal states:

*"The owner and agent claimed they would not evict and were willing to work together to plan affordable rent repayments, but in reality, they suspended internet and laundry facilities to force us to pay rent immediately or move out. Network outages have resulted in overages on mobile phone data, worsening opportunities for self-employment that already have dwindling income"*

The Appellant also submitted:

- a statement that said, "The outage of home internet has caused the increase in of usage on mobile network. And the data now has over usage for CAN\$250, the networks are not accessible on both my spouse's and my mobile. We are no longer able to do self-employment jobs".
- messages from PhoneBox stating that she is over her data limit and has an outstanding balance on her account.
- text messages from the Landlord that laundry and internet won't be available until the rent has been paid.
- a 10 Day Notice to End Tenancy for unpaid rent or utilities with a move out date of July 31, 2024.

### Ministry Submissions

The Ministry stated that their submission is the reconsideration summary provided in the Record of Ministry Decision.

In the Reconsideration Decision section of the Appendix A, the Ministry stated, "...the Ministry is unable to establish that your rent is due to unexpected circumstances". The Ministry then states in the next sentence, "The Ministry is satisfied that your need for rent is due to unexpected circumstances". The panel asked the Ministry to clarify conflicting

statements in Appendix A of the Reconsideration Decision and the Ministry responded saying that their submission remains as stated in the Reconsideration Decision.

#### Admissibility of New Evidence

Under section 22(4) of the *Employment and Assistance Act*, the panel may admit any new evidence that is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

The panel admitted the following as new evidence from the Appellant as the information provided further information about the issue on appeal at the hearing:

- messages from PhoneBox stating that the Appellant is over in their data usage and has an overdue account balance.
- texts from the landlord saying that laundry and Internet will not be available to the Appellant as she did not pay her rent.
- 10 Day Notice to End Tenancy for Unpaid Rent or Utilities.
- the Appellant's statement that not having access to internet affected their self-employment jobs.

The Ministry did not present any new evidence.

**Part F – Reasons for Panel Decision****Purpose and Standard of Review**

The purpose of the hearing is not to redo the decision under appeal. It is to review and assess whether the decision satisfied a standard, or benchmark, of reasonableness even if the panel might disagree with the outcome. The standard applied is whether the applicable laws were reasonably applied or whether the evidence was reasonably applied in the circumstances of the appellant.

Specifically, in this appeal, did the Ministry reasonably determine and analyze the evidence to conclude that the Appellant was not eligible for a crisis supplement for her rent?

**Panel Reasoning for Decision**

The panel reviewed the evidence presented relating to Section 57(1) of the Employment and Assistance Regulation.

**Section 57(1) of the Regulation states:**

A crisis supplement may only be provided if all the following eligibility criteria are met:

- The family unit is eligible for disability assistance or hardship assistance **and**
- Is required to meet an unexpected expense, or an item unexpectedly needed **and**
- There are no resources available **and**
- Failure to obtain the item or meet the expense will lead to imminent danger to your physical health or a child being removed under the physical health or a child being removed under the Child, Family and Community Service Act.

The panel finds that the Ministry was not reasonable in their determination and analysis of the evidence for the following reasons:

- The Ministry provided conflicting and contradictory information in Appendix A of the Reconsideration Decision. They stated that they were unable to determine that the rent was an unexpected expense, and then in the next sentence stated that the Appellant had established that the rent was an unexpected expense.
- The Ministry stated that they provided a crisis supplement in June 2024, “due to moving expenses and unexpected low hours of work”, but then in July 2024 stated that low hours of work does not meet the criteria for a crisis supplement as fluctuating hours should be expected by the Appellant. The panel finds it is not reasonable for the Ministry to apply regulations inconsistently from month to month.
- In the Ministry’s application of the legislation, there was no analysis of the Appellant’s available resources. The panel finds that there is not enough

information to make a determination about available resources and it was not reasonable that the Ministry did not address this criterion.

- Though the panel reviews and focuses on the Reconsideration Decision, the panel notes that the Ministry has been inconsistent with the analysis and application of the evidence. In the original decision, the Ministry contacted the Landlord and when the Landlord said that the Appellant would not be evicted, they determined that because the Appellant was not in danger of being homeless, she did not meet the criteria of imminent danger to her health. However, in the Reconsideration Decision, the Ministry wrote that they were satisfied that the Appellant's physical health will be in imminent danger if she does not receive the rent supplement, as she will be evicted.
- The panel also notes that the Ministry has cited Section 59(1) of the Regulation in its Reconsideration Decision which is the wrong section.

### **Concluding Decision**

The panel found that the Ministry was not reasonable in their decision and analysis of the evidence in their denial of the Appellant's Request for Reconsideration under Section 59(1) of the Employment and Assistance Regulation.

The panel found that the Ministry provided contradictory statements about the rent being an unexpected expense in Appendix A, inconsistent application of the provision of a crisis supplement as a result of fluctuating hours of work, insufficient analysis of the criteria of access to available resources and conflicting application of the threat of being homeless on the criteria of imminent danger to the Appellant's physical health.

The Ministry's decision is rescinded. The Appellant's appeal is successful.

## Appendix – Relevant Legislation

### ***Employment and Assistance for Persons with Disabilities Act*** **Disability assistance and supplements**

s. 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**

**59** (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\*](#).

APPEAL NUMBER 2024-0280

**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

Mary Chell

Signature of Chair

Date (Year/Month/Day)

2024/08/21

Print Name

Sarah Bijl

Signature of Member

Date (Year/Month/Day)

2024/08/19

Print Name

Neena Karem

Signature of Member

Date (Year/Month/Day)

2024/08/22