

**PART C – Decision under Appeal**

The reconsideration decision dated 27 January 2011 determined that the appellant was not eligible for a crisis supplement to cover the costs of NSF cheque and late rent payment surcharge because failure to obtain those funds would not result in imminent danger to the appellant's health and that she had alternate resources to meet that need under section 57 of the Employment and Assistance for Persons With Disabilities Regulation.

**PART D – Relevant Legislation**

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), section 57.

## PART E – Summary of Facts

The evidence before the Ministry at reconsideration consisted of:

- The appellant receives monthly income assistance (\$375 shelter and \$531.42 support allowances) as a single person and has a Person with Disability (PWD) status.
- On 13 October 2010, mail sent to the appellant was returned to the Ministry marked "Moved Unknown return to sender".
- The November income assistance cheque was retained and directed to the local office to ensure contact by the appellant to confirm where she was living.
- A Ten Day Notice to End Tenancy for Unpaid Rent or Utilities dated 8 November 2010 was taped on the appellant's apartment's door, indicating she had not paid her November rent and that she had five days to pay her rent or otherwise would be evicted in ten days of the date of the notice.
- According to the Ministry, on 9 November 2010 (on 15 November according to the appellant), the appellant confirmed her address and that she had not moved and her income assistance cheque for November was immediately issued.
- On the same day, the appellant requested a crisis supplement to cover the NSF fees of \$65 that the appellant's father had paid but that the appellant had to reimburse.
- A Payment Receipt dated 9 November 2010 indicating the appellant paid her rent plus \$25 NSF Fee.
- A bank document confirming the appellant's bank account number.
- A printout "Personal/Business Deposit Account Statement Update" for the bank account number of the appellant stating a cheque returned NSF on 2 November 2010 for the amount of her rent and on the next day, a NSF Item Fee of \$40.
- A Bank Account Statement for the appellant confirming that on 3 November 2010 she was charged \$40 for a NSF Item Fee.
- A letter dated 25 January 2011 explaining the circumstances around this matter and indicating that the eviction notice and her visit to the Ministry's office occurred on 15 November 2010.

At the hearing, the appellant testified that mail had been returned to the Ministry four months earlier and at that time the Ministry had called her to confirm her address and she expected this should have happened as well for this incident. She did not know why the Ministry's mail was returned undelivered and indicated it was in her opinion only the Ministry's mail. She repaid her father with funds she received from other sources, including a GST refund. This whole situation, particularly the eviction notice, inflicted upon her much anxiety and stress and she indicated the landlord called her to advise her of the NSF cheque and she found the eviction notice on her door the same day that she received that call. She finally testified that her meeting at the Ministry's office was on 9 November 2010 and not on the 15<sup>th</sup> as she had mentioned in her letter of 25 January 2010.

The Ministry indicated that it was Ministry's policy not to call everyone whose mail was returned for being undeliverable to verify their address and payments were retained until confirmation of address.

No new evidence was provided at the hearing.

The panel makes the following finding of facts: The appellant went to the Ministry's office on 9 November 2010 to retrieve her cheque for that month and that she also requested the crisis supplement at the same time, indicating she wanted to repay her father as a result of him lending her

the \$65 to cover the NSF cheque fees and the late payment for her rent.

## PART F – Reasons for Panel Decision

The issue under appeal in this case is whether the Ministry's decision that the appellant was not eligible for a crisis supplement to cover the costs of NSF cheque and late rent payment surcharge because failure to obtain those funds would not result in imminent danger to the appellant's health and that she had alternate resources to meet that need under section 57 of the Employment and Assistance for Persons With Disabilities Regulation was either a reasonable application of the legislation or reasonably supported by the evidence.

The applicable legislation, section 57 of the EAPWDR states:

- 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, or ...
- (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 food, shelter or clothing is subject to the following limitations:...
- (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 maximum set out in section 4 of Schedule A or Table 2 of Schedule D, as applicable, for a family unit that matches the family unit, ...

The Ministry argues that the appellant is not eligible for a crisis supplement even though this might have been an unexpected expense because repaying her father will not result in imminent danger to the appellant's health. The Ministry argues that the appellant had already found sufficient funds to pay for the NSF cheque and the late payment for her rent and that at this point the issue is not whether evicting her might result in imminent danger to her health but rather whether repaying her father would. The Ministry also argued that the appellant had other, alternate, resources available to her as her father lent her the money to pay the \$65 and she did repay him through other resources available to her.

In her Notice of Appeal dated 10 February 2011, the appellant argues that the "Ministry would not reimburse me the NSF fees I incurred to them, not alerting me that my cheque had been flagged, and cancelling my cheque, causing me to be evicted if I had not borrowed the \$65." She further argues in a letter dated 25 January 2010 and at the hearing that the Ministry should have called her when the envelope was returned to verify her address like they had done previously and that this situation left her on the brink of being evicted, which would have resulted in imminent danger to her health if she became homeless and destitute. She claims that having to borrow the money from a relative is not an alternate resource, as she has to repay the loan in any event.

The panel notes that the Ministry determined that the expense was unexpected. The panel finds that

at the moment the appellant made a request for a crisis supplement, she knew her father had lent her or would lend her the funds to pay the \$65 and she wanted to use the crisis supplement to repay him. In those circumstances, it was reasonable for the Ministry to determine that failure to meet the expense, that is repaying her father, would not result in imminent danger to the appellant's physical health as the issue of eviction had already been dealt with through that loan. Further, it was also reasonable for the Ministry to determine the appellant had resources available to her to meet that expense since she was able not only to obtain a loan from a relative but also to repay him out of money she eventually received from other sources.

Therefore, the panel finds that the Ministry's decision was reasonably supported by the evidence and confirms the decision.