

PART C – Decision under Appeal

The decision under appeal is the Ministry's Reconsideration Decision dated December 14, 2011 which found that the Appellant was required to repay to the Ministry \$293.76 of income assistance for which he was not eligible pursuant to section 27 of the Employment Assistance Act ("EAA"). The Appellant's ineligibility for the income assistance benefits arose due to his failure to inform the Ministry of his change in rental accommodation as required under section 11 of the EAA and his resulting receipt of monthly income assistance in excess of that which he was eligible over the course of three months.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) sections 11, 27 and 28
Employment and Assistance Regulation (EAR) Schedule A, section 6

PART E – Summary of Facts

The evidence before the Ministry at the time of the Reconsideration Decision consisted of copies of the following:

1. The Appellant's Request for Reconsideration dated November 17, 2011;
2. A Shelter Information application form dated May 18, 2011;
3. A Shelter Information application form dated September 1, 2011;
4. A Shelter Information application form dated September 15, 2011;
5. An undated handwritten note written by the Appellant; and
6. A list of 7 medications with the date "Nov 29.11" handwritten on it.

No new evidence was submitted by the Appellant or the Ministry. The Ministry relied on the Reconsideration Decision.

On May 24, 2011, the Appellant submitted a Shelter Information Form dated May 18, 2011 ("SIF #1") for tenancy at a residence ("Residence #1") beginning on May 18, 2011. Rent payable at Residence #1 was to be \$400.00 per month. The Appellant submitted a second Shelter Information Form dated September 1, 2011 ("SIF #2") for tenancy at a new residence ("Residence #2") with the start date being July 1, 2011. Rent payable at Residence #2 was to be \$500.00 per month. A third Shelter Information Form dated September 15, 2011 ("SIF#3") was also completed on behalf of the Appellant and applies to Residence #2 and indicates that the tenancy start date is November 9, 2009. SIF #3 notes that rent payable is \$650.00 and that a security deposit of \$325.00 is required. A receipt dated September 15, 2011 for October rent and the security deposit is attached to SIF #3.

The Ministry did not receive notice of the Appellant commencing his tenancy at Residence #2 until September 2, 2011 and as a result, it continued to pay to the Appellant monthly income assistance benefits of \$657.92 in July, August and September 2011. Because of the Appellant's change in accommodation to Residence #2, pursuant to Schedule A, section 6 of the EAR he was eligible beginning July 1, 2011 for the sum of the actual cost of his room and board (or \$500.00) plus \$60.00 for each calendar month for a total of \$560.00 per month in income assistance in each of July, August and September 2011. The difference between what the Appellant actually received and that which he was eligible was \$97.92 per month for three months or a total of \$293.76.

In the Request for Reconsideration, the Appellant states that he is not aware of his not submitting rent forms for where he was living. He maintains that he did not lie or falsify anything and that he did his part. He maintains that as the Ministry issued the cheques, he is not at fault and that the Ministry was late in taking action and that he should not be blamed for that.

In the Appellant's Notice of Appeal, he states that the paperwork in question was done by someone other than himself and that he gave the proper information and that other person responded after putting that information into their own words. He states further that his trying to right the information had no bearing on what came out.

PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the Ministry's Reconsideration Decision which found that the Appellant was required to repay to the Ministry \$293.76 of income assistance for which he was not eligible pursuant to section 27 of the Employment Assistance Act ("EAA"). The Appellant's ineligibility for the income assistance benefits arose due to his failure to inform the Ministry of his change in rental accommodation as required under section 11 of the EAA and his resulting receipt of monthly income assistance in excess of that which he was eligible over the course of three months.

Section 11 of the EAA provides as follows:

11 (1) For a family unit to be eligible for income assistance, a recipient, in the manner and within the time specified by regulation, must

(a) submit to the minister a report that

(i) is in the form prescribed by the minister, and

(ii) contains the prescribed information, and

(b) notify the minister of any change in circumstances or information that

(i) may affect the eligibility of the family unit, and

(ii) was previously provided to the minister.

(2) A report under subsection (1) (a) is deemed not to have been submitted unless the accuracy of the information provided in it is affirmed by the signature of each recipient.

Section 27 of the EAA provides as follows:

27 (1) If income assistance, hardship assistance or a supplement is provided to or for a family unit that is not eligible for it, recipients who are members of the family unit during the period for which the overpayment is provided are liable to repay to the government the amount or value of the overpayment provided for that period.

(2) The minister's decision about the amount a person is liable to repay under subsection (1) is not appealable under section 17 (3) [reconsideration and appeal rights].

Section 28 of the EAA provides as follows:

28 (1) An amount that a person is liable to repay under this Act is a debt due to the government that may be

(a) recovered in a court that has jurisdiction, or

(b) deducted in accordance with the regulations, from any subsequent income assistance, hardship assistance or supplement for which the person's family unit is eligible or from an amount payable to the person by the government under a prescribed enactment.

(2) Subject to the regulations, the minister may enter into an agreement, or accept any right assigned, for the repayment of an amount referred to in subsection (1).

(3) An agreement under subsection (2) may be entered into before or after the income assistance, hardship assistance or supplement to which it relates is provided.

(4) A person is jointly and separately liable for a debt referred to under subsection (1) that accrued in respect of a family unit while the person was a recipient in the family unit.

Section 6 of Schedule A to the EAR provides as follows:

6 (1) For a family unit receiving room and board other than in a facility mentioned in section 8 or 9 of this Schedule or from a relative referred to in subsection (2), the amount referred to in section 28 (a) [amount of income assistance] of this regulation is the smaller of the following amounts:

(a) the sum of

(i) the actual cost of the room and board, plus

(ii) \$60 for each calendar month for each applicant or recipient, plus

(iii) \$40 for each calendar month for each dependent child in the family unit;

(b) the amount calculated under sections 1 to 5 of this Schedule for a family unit matching the applicant's or recipient's family unit.

(2) If a family unit receives room and board from a parent or child of an applicant or a recipient in the family unit, only the following amounts may be provided:

(a) the support allowance that is applicable under sections 2 and 3 of this Schedule to a family unit matching the applicant's or recipient's family unit;

(b) Repealed. [B.C. Reg. 62/2010, s. (a).]

The Appellant argues that he has done nothing wrong and that he provided the proper information to the Ministry. He says that the paperwork was done by someone else and even though he tried to correct the information it had no bearing on what was submitted.

The Ministry's position is that beginning July 1, 2011 the Appellant was entitled to monthly income assistance of \$560.00 in July, August and September 2011. The Ministry argues further that because the Appellant did not notify the Ministry of his new accommodation at Residence #2 until September 2, 2011, he received \$97.72 per month in income assistance benefits greater than that which he was eligible over the course of three months and as such, a total of \$293.76 must be repaid to the Ministry.

Section 11(1) of the EAA provides that for a family unit to be eligible for income assistance, a recipient must submit a report to the minister that contains the prescribed information and notify the minister of any change in circumstances or information that may affect the eligibility of the family unit. In the present case, the Appellant submitted SIF #2 to the Ministry on September 2, 2011 for tenancy that began on July 1, 2011. The Appellant therefore did not notify the Ministry of his change in tenancy at the time it occurred and because of this, the Ministry continued to pay to the Appellant \$657.92 in income assistance for the months of July, August and September 2011. As a result of the Appellant changing his residence on July 1, 2011, the monthly income assistance that the Appellant was eligible for was only \$560.00 pursuant to Schedule A, section 6 of the EAR which resulted in an overpayment of \$97.92 per month for three months or a total of \$293.76.

The Panel finds that the Appellant did not notify the Ministry of his change in rental accommodation in the form provided as required by section 11 of the EAA and as a result, the Appellant continued to receive income assistance benefits in excess of an amount which he was eligible for. Pursuant to section 27(1) of the EAA, the Appellant is liable to repay to the government the amount of the overpayment for the period of July, August and September 2011, namely, \$293.76.

The Panel finds that the Ministry's determination that the Appellant is required to repay the income assistance he was not eligible to receive was a reasonable application of the applicable enactment in the circumstances of the Appellant and the Panel therefore confirms the Ministry's decision.