

**PART C – Decision under Appeal**

The decision under appeal is the ministry's reconsideration decision dated January 26, 2011 (*sic*) which found that the appellant is not eligible for income assistance as the appellant has not provided information requested by the ministry pursuant to Section 10(4) of the Employment and Assistance Act (EAA), namely: verification of the information provided in the bank statements of the source of the deposits made to the appellant's bank account over the period October 24, 2011 through December 13, 2011.

**PART D – Relevant Legislation**

Employment and Assistance Regulation (EAR), Section 32

Employment and Assistance Act (EAA), Section 10

## PART E – Summary of Facts

The evidence before the ministry at the time of the reconsideration decision consisted of:

- 1) Transaction History for the appellant's bank account for the period October 24, 2011 through December 13, 2011 showing in part total deposits for October 2011 of \$2,610, for November 2011 of \$24,400 and for December 2011 of \$11,177.50;
- 2) Bank Profile dated December 23, 2011 indicating the appellant's bank account is closed; and,
- 3) Request for Reconsideration- Reasons.

At the hearing, the appellant stated that he let a person who fixed his truck for him use his bank account, that he gave this person his bank card and PIN number in October 2011 and he did not know how much had been deposited or where it came from. The appellant stated that when he got the transaction records from the bank, he saw the amounts that had been deposited and withdrawn, but the appellant states that he did not make the deposits and only made some small withdrawals. The appellant stated that it is not possible to get any further information about the deposits since the bank says he will never get another bank account if they have to conduct an investigation into the use of his account. The appellant stated that he has problems with his back so he can no longer do construction work or any physical labour work, that he had worked in the northern part of the province and made \$1,500 but that it was not a good environment there, with many drug addicts and alcoholics, and he did not want to stay there. The appellant stated that he worked a while ago with a reputable trucking company making \$20 an hour and that he can still do this work but his driver's license has been suspended by the Family Maintenance Enforcement Program. The appellant stated that he has to go to court on Monday to try to get his license back so that he can work. The appellant stated that he has not made any income since the \$1,500 in November 2011, that he's just been able to pick up odd jobs here and there for \$50 or \$100 at a time.

In his Request for Reconsideration, the appellant adds that he desperately needed the brakes fixed on his old vehicle that has 500,000 km. on it, and he let the person who repaired his vehicle use his bank account. The appellant explains that he closed the account on the bank's advice. The appellant states that he was told by the bank that if they have to investigate the account, that the appellant would never be allowed to open an account again. The appellant states that if he does not get the money for rent by Thursday, he will be out. In his Notice of Appeal, the appellant states that he does not have any money.

The evidence of the ministry is that the appellant is a single employable person and that his file most recently opened in November 2011. On December 23, 2011, the appellant stated that he had earned approximately \$1,500 in November 2011. The appellant was advised that confirmation of earnings would be required to determine his eligibility for income assistance. The appellant stated that he was not able to obtain confirmation as he worked for cash. The appellant submitted copies of his bank activity statements to the ministry showing multiple deposits and withdrawals involving several thousand dollars. The appellant stated this activity was done by a friend who he let use his bank card. The appellant was advised that confirmation of the source of the activity would be required. The appellant stated that he was required to let his friend use his bank card in exchange for him fixing the brakes on the appellant's truck. The appellant has now closed the bank account to avoid any further activity by his friend.

## PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry reasonably concluded that the appellant is not eligible for income assistance as the appellant has not provided information requested by the ministry pursuant to Section 10 of the Employment and Assistance Act (EAA), namely: verification of the information provided in the bank statements of the source of the deposits made to the appellant's bank account over the period October 24, 2011 through December 13, 2011.

Section 10(1) and (4) of the Employment and Assistance Act (EAA) provide that:

10 (1) For the purposes of

- (a) determining whether a person wanting to apply for income assistance or hardship assistance is eligible to apply for it,
- (b) determining or auditing eligibility for income assistance, hardship assistance or a supplement,
- (c) assessing employability and skills for the purposes of an employment plan, or
- (d) assessing compliance with the conditions of an employment plan,

the minister may do one or more of the following:

- (e) direct a person referred to in paragraph (a), an applicant or a recipient to supply the minister with information within the time and in the manner specified by the minister;
  - (f) seek verification of any information supplied to the minister by a person referred to in paragraph (a), an applicant or a recipient;
  - (g) direct a person referred to in paragraph (a), an applicant or a recipient to supply verification of any information he or she supplied to the minister...
- (4) If an applicant or a recipient fails to comply with a direction under this section, the minister may declare the family unit ineligible for income assistance, hardship assistance or a supplement for the prescribed period.

Section 32(1) of the EAR provides that:

32 (1) For the purposes of section 10 (4) [*information and verification*] of the Act, the period for which the minister may declare the family unit ineligible for assistance lasts until the applicant or recipient complies with the direction.

The appellant argues that he has provided the transaction history for his bank account and that he cannot obtain any further information from the bank without launching an investigation which could result in him never getting a bank account again. The appellant argues that he needed to get the brakes fixed on his truck and that the person who fixed them would only do so in exchange for the use of the appellant's bank account. The appellant argues that he did not make the deposits to the account and only made some of the smaller withdrawals, and that he has had no real income since the \$1,500 paid in cash in November 2011.

The ministry points out that the appellant has applied for income assistance as a single employable person and that eligibility for income assistance is determined, in part, through income testing. The ministry argues that the amount of income assistance a person is eligible to receive is reduced by the amount of certain types of income unless specifically exempted. The ministry points out that in order for the ministry to determine if the funds deposited into the appellant's bank account should be included in the calculation of the amount of income received and subsequently the amount to be deducted from his income assistance, confirmation of the source of the income must be provided. The ministry argues that under Section 10(1) of the EAA, the ministry may request a person to provide information and/ or verification of the information if required to determine eligibility for income assistance. In order to determine the appellant's eligibility, the ministry requested that the appellant provide specific information, namely: verification of the information provided in the bank statements of the

source of the deposits made to the appellant's bank account over the period October 24, 2011 through December 13, 2011. The ministry further points out that the information has not been provided by the appellant to the date of the decision and, therefore, the appellant is ineligible for assistance until he complies with the direction, pursuant to Section 32 of the EAR.

The panel finds that it is not disputed that the appellant provided the transaction history for his bank account to the ministry to confirm his income reported for November 2011 and that the ministry further requested that he provide verification of the source of the deposits made to the appellant's bank account over the period October 24, 2011 through December 13, 2011, pursuant to Section 10(1) of the EAA. The appellant argues that he has provided the transaction history for his account and that he cannot obtain any further verification from the bank without launching an investigation that will result in him never getting a bank account again, and he states that the deposits made to the account are not his funds. Although the appellant states that the deposits totaling \$38,187.50 from October 24, 2011 through December 13, 2011 are not his funds as someone else was using his account and he does not know the source of the funds, the panel finds that the deposits were made into the appellant's bank account and that these amounts were money standing to the appellant's credit with the bank that must pay the funds to him on demand. In terms of the source of the funds, although the appellant argues that it is difficult to obtain this information, the panel finds that the difficulty has arisen as a result of the appellant's own actions in permitting another party to freely use his bank account. The panel finds that the ministry reasonably determined that the appellant has not provided the required verification of the source of the deposits made into his bank account over the period October 24, 2011 through December 13, 2011. The panel finds that the ministry's determination that the appellant has not provided information requested by the ministry pursuant to Section 10 of the EAA, and that the appellant is not eligible for income assistance, pursuant to Section 32 of the EAR, until he complies with the direction, was reasonable.

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