

**PART C – Decision under Appeal**

In a reconsideration decision dated 02 February 2012, the Ministry denied the Appellant's request for income assistance (IA) because they determined he had assets in excess of the allowable asset level of \$1,500 for a single person as per the Employment and Assistance Regulation, Section 1 and Section 11.

**PART D – Relevant Legislation**

Employment and Assistance Regulations (EAR) Section 1(1) Definitions: "asset"  
Employment and Assistance Regulations (EAR) Section 11

## PART E – Summary of Facts

Evidence before the Ministry at the time of the reconsideration decision included:

- A letter dated January 20, 2012 from the Appellant,
- A letter dated January 13, 2012 from the Appellant's mother stating that the real property asset in question (the property) is considered hers until her death,
- A 2012 tax assessment property notice assessing the property at a value of \$130,000,
- An Assessment Roll Report dated December 22, 2011 listing the number of owners of the property as 7,
- A Title Search Print dated December 22, 2011 listing the Appellant, his cousins and siblings as owners of the property,
- A note (undated) from the Appellant's family specifying the value of the property at \$120,000 and that the Appellant's portion as \$12,000.

In the letter dated January 20, 2012, the Appellant states that although his name is on the land title for the property, it belongs to his mother. He explains when the names were changed on the land title a few years ago, his mother decided to add her children to the title thinking she would be saving them work when she passed away. However, as far as she and the other members of the family are concerned, the property is his mother's and he has no claim. He refers to the letter dated January 13, 2012 from his mother confirming this belief.

He continues that he is actively looking for employment, is arrears in his rent, is at risk of being evicted, and his employment insurance ran out on December 18, 2011. He concludes that he plans on applying for PWD designation.

The Ministry accepts from the evidence that the Appellant portion of the property is equal to approximately \$12,000. It states whether or not a sale can be accomplished immediately or will be delayed is not part of the definition of an asset. As there are no functional impediments to the sale of the property, the Ministry states the property is an asset. It concludes although the Appellant's mother currently resides on the property, legally the property is owned by the Appellant and other members of his family, verified by the land title registration. The Ministry concludes the property is valued at \$120,000 and the Appellant's equity is approximately \$12,000 and this exceeds the maximum allowable asset limit of \$1,500.

At the hearing, the Advocate stated that the Appellant's mother thought she was simplifying the situation for her family when she transferred the property title over to her sons a few years ago. The mother lives on the property and maintains it and as far as she and her children are concerned the property is hers. The Advocate says because of this verbal agreement between the family, the Appellant is unable to sell off his portion and furthermore none of his brothers or mother is financially able to "buy him out". The Advocate concluded on moral and ethical grounds the Appellant does not have access to this asset even if legally he could try and access it.

The Appellant said that he is destitute, that he is "between a rock and a hard place" and if he cannot get any assistance from the Ministry, he does not know what he will do.

At the hearing, the Ministry confirmed that the value of the Appellant's asset at \$12,000 is not disputed, however there is no exemption within the legislation for the level of difficulty that the

Appellant may have to access his asset. There is an exemption if the asset was functionally impeded, that is impossible to access, but this is not the situation in this case.

From the information presented, the Panel finds:

- The Appellant is a single applicant for IA,
- The Appellant is a joint owner of real property with other family members,
- The Appellant's mother currently resides on the property,
- The property is worth approximately \$120,000,
- The Appellant's portion of the asset is accepted to be \$12,000.

## PART F – Reasons for Panel Decision

The issue in this case is the reasonableness of the Ministry to deny the Appellant's request for income assistance (IA) because they determined he had assets in excess of the allowable asset level of \$1,500 for a single person as per the Employment and Assistance Regulation, Section 1 and Section 11.

The legislation provides under EAR Definitions and Section 11(2)(b):

*"asset" means*

- (a) equity in any real or personal property that can be converted to cash,*
- (b) a beneficial interest in real or personal property held in trust, or*
- (c) cash assets;*

*2) A family unit is not eligible for income assistance if any of the following apply:*

- (b) a sole recipient has no dependent children and has assets with a total value of more than \$1 500;*

The Ministry argues the Appellant has assets of real property shared with other family members at a value of approximately \$12,000 and this exceeds the allowable limit of \$1,500. The Appellant argues he has no means to support himself and has no access to these assets until his mother's death.

From the findings of facts, the Appellant is a joint owner of real property with an asset value of approximately \$120,000 and the Appellant's portion, by family arrangement, is approximately \$12,000.

The Panel recognizes that the Appellant wishes to honor his family arrangement to dispose of the property at the time of his mother's death, however the land title legally recognizes the Appellant as part owner of the property and because Section 1 of the EAR defines an asset as equity in any real or personal property that can be converted to cash, the Panel finds the Ministry reasonably determined the Appellant's joint ownership of the property fits the definition of an asset.

Therefore, the Panel finds the Ministry reasonably determined the Appellant's portion, at an approximate value of \$12,000, exceeds the limit of \$1,500 as specified in the Section 11(2)(b) of the EAR.

The Panel finds the Ministry decision to deny the Appellant IA was reasonably supported by the evidence and confirms the decision to deny IA.