

**PART C – Decision under Appeal**

The decision under appeal is the ministry's reconsideration decision dated February 14, 2012 which held that the appellant was not eligible for income assistance due to failure to provide information required to determine eligibility for assistance pursuant to Section 10(1) of the Employment and Assistance Act.

**PART D – Relevant Legislation**

Employment and Assistance Act (EAA), section 10  
Employment and Assistance Regulation (EAR), section 32

## PART E – Summary of Facts

The evidence before the Ministry at reconsideration consisted of:

- Tenancy Agreement with appellant's sister added and a addendum from May 2011
- First Request for information to appellant dated November 9, 2011
- Letter regarding rent reduction dated November 9, 2011 from the ministry to the appellant indicating his portion of the rent to be \$350
- Letter which is undated, stamped received by the ministry December 15, 2011, from person A, indicating that she is the appellant's mother and has been helping him with his rent since May 1, 2011
- Appellant's rent receipts for: September; one for \$375 and a second for \$325; October for \$700 and November for \$695
- Bank Statements for August, September, October and November 2011
- Suspension Notice from communications provider dated September 27, 2011, for over due account, in name of person B
- Appellant's BCID and Care Card copies provided on November 18, 2011
- Second Request for information to appellant dated November 21, 2011
- Two letters to the appellant, dated December 2, 2011 requesting information, one letter stating the information was needed before December 9<sup>th</sup>, the other warning the information was required prior the January assistance cheque
- Request for Reconsideration dated December 8, 2011
- Final Letter dated December 16, 2011, advising the appellant that his file will be closed
- Eviction notice for the appellant only dated January 2, 2012, due to failure to pay rent for January

The Tenancy Agreement's addendum from May 2011 had the following conditions: tenant must have regular garbage pickup; additional tenant is an extra \$50/month; no smoking in suite or on property ever; no insured vehicles and no storing of vehicles for others signed only by the landlord and the appellant.

In the First Request for information dated November 9, 2011, the ministry requests the following information and documentation from the appellant for the purpose of determining current eligibility for assistance:

1. Most recent rent receipt
2. Verification of all other monthly expenses including hydro, cable, internet, telephone/cell phone, insurance credit/loan payments
3. Bank statements for the last 90 days from all open bank accounts
4. Bank profile/customer summary from each bank at which you hold an account
5. Verification of all income received , besides income assistance from January 2011 to present date
6. Verification of date appellant filed his 2009 and 2010 income taxes
7. All identification including birth certificate, BCID/BC Drivers License, social insurance card, care card and passport

In the Second Request for information dated November 21, 2011, the ministry requests the following

information and documentation from the appellant:

1. Bank profile from each bank at which you hold an account
2. Phone # for the appellant's sister to verify dates and amounts of rent she has paid.
3. Verification of other tenants residing in your suite; verification that the appellant's girlfriend is not residing in the suite
4. Copy of phone bill for appellant's #
5. Identification to include social insurance card, birth certificate and passport
6. Verification of all employment income received by the appellant since January 2011

In the Third Request for information dated December 2, 2011, the ministry requests the following information and documentation from the appellant:

1. Phone # for the appellant's sister to verify dates and amounts of rent she has paid
2. Verification of other tenants residing in your suite; verification that the appellant's girlfriend is not residing in the suite
3. Identification to include social insurance card, birth certificate and passport

In the final letter dated December 16, 2011, the ministry advises that as the appellant has not provided all the requested information, his eligibility cannot be determined. Therefore, his file will be closed on January 3, 2012.

In the Request for Reconsideration dated February 8, 2012, the appellant indicates that his mother faxed info about helping with his rent and that he did not have a girl living with him. Person C had been stopping by to help him out but she had been living with her son. He adds that person C has "absolutely nothing to do" with him anymore and that he is not able to contact her. The appellant states that he is homeless.

In the Reconsideration Decision, dated February 14, 2012, the ministry advises that the legislation provides for the minister to request a person to provide information and/or verification of the information if required, to determine eligibility for income assistance (IA). Due to the complexity of the appellant's file, several documents were requested. The appellant's file showed an updated tenancy agreement with the appellant's sister named, as sharing the monthly rent of \$700. The landlord was contacted and confirmed the amount of the rent however; stated it was not the appellant's sister but another woman, person C, believed to be the appellant's girlfriend, who lives in the suite. When the ministry investigator (MI) asked for clarification, the appellant confirmed that person C is the other tenant, who is his girlfriend and staying with him for a short time. Although a file review determined that the appellant had provided some of the information requested in letters sent to him on November 9, 21 and December 2, 2011; still outstanding was tenancy information or verification of how rent was paid. Additionally on December 12, 2011, the appellant was asked to provide a phone # or letter from his sister advising of the dates and amounts of rent paid and verification from his landlord of whom is residing at the property. At this time, the appellant stated that it was his mother who helps with the rent and that his sister only signed the agreement as his mother did not want to get involved. The appellant was asked to confirm this information. Also, the appellant indicated that person C would be added to his lease beginning in January. The appellant then asked if he could continue collecting IA while living with person C and was advised that they would have to apply for IA together. The appellant stated that he would then not add person C to his lease. The appellant was advised that he would need to provide verification that person C has moved out in order for the appellant to be

eligible for IA as a single person. The ministry concludes that despite numerous requests, the appellant has not submitted the requested information and therefore his eligibility for further IA cannot be established.

At the hearing, the appellant indicated that person C has nothing more to do with him and lives with her son. Person C has changed her cell phone number and he is not able to contact her. He added that someone at the ministry had said that person C had called in and was nasty. The appellant states that they used to date years ago, but when person C came back this time, it was to help him. When asked by the panel what type of help person C provides; the appellant indicated that she would go to the store, help clean and talk to him. The appellant stated that he has lost person C as a friend over this matter.

The appellant stated that he added his sister as a non-residential tenant to the rental agreement because it allowed him to have his own place. He stated it is important for him to live alone, indicating having others around can cause him stress and anxiety. The appellant admitted that he lied by using his sister on the tenancy agreement because it was his mother who helped him out with \$100 each month, but that she didn't want to become involved. The rest of the rent comes from his IA. The appellant indicates that he had also provided the ministry with his mother's phone #, 6 weeks ago. He added that this was the only way he could have his own place and because of stress, he needs to live alone. He indicates that his landlord wanted extra money so that is why he could not get verification from him for the ministry.

On the Notice of Appeal dated February 23, 2012, the mother's phone number is written and stamped received by the ministry February 24, 2012.

The ministry was not in attendance at the hearing. After confirming that the ministry was notified, the hearing proceeded under section 86(b) of the Employment and Assistance Regulation.

The panel admitted the appellant's oral testimony as being in support of the evidence that was before the ministry pursuant to section 22(4) of the Employment and Assistance Act.

The panel makes the following finding of facts:

- The appellant had been in continuous receipt of income assistance as a single person since August 2003.
- Person C is known by the ministry, as her GA# is documented in the reconsideration decision.
- The appellant had provided all the documentation requested by the ministry in letters sent to him on November 9, 21 and December 2, 2011 except for tenancy information

## PART F – Reasons for Panel Decision

The decision under appeal is the ministry's reconsideration decision that the appellant was not eligible for income assistance due to failure to provide information required to determine eligibility for assistance pursuant to Section 10(1) of EAA was either a reasonable application of the legislation or reasonably supported by the evidence.

The applicable legislation in this matter is:

### **Employment and Assistance Act Information and verification**

**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.
- (2) The minister may direct an applicant or a recipient to supply verification of information received by the minister if that information relates to the eligibility of the family unit for income assistance, hardship assistance or a supplement.
- (3) Subsection (1) (e) to (g) applies with respect to a dependent youth for a purpose referred to in subsection (1) (c) or (d).
- (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.
- (5) If a dependent youth fails to comply with a direction under this section, the minister may reduce the amount of income assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period.

### **Employment and Assistance Regulation**

**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.

(2) For the purposes of section 10 (5) [information and verification] of the Act, (a) the amount by which the minister may

reduce the income assistance or hardship assistance of the dependent youth's family unit is \$100 for each calendar month, and

(b) the period for which the minister may reduce the income assistance or hardship assistance of the dependent youth's family unit lasts until the dependent youth complies with the direction.

The ministry argues that the appellant is not eligible for income assistance as he has failed to provide all the information required to determine eligibility for Income Assistance pursuant to section 10(1) of the EAA. As a result, in the final letter to the appellant dated December 16, 2011, the ministry advises that his file will be closed on January 3, 2012.

The appellant argues that; although he admits to lying about his sister helping with rent when it was his mother; he has complied with the ministry's request for further information, the best he could. He adds that person C did stay over however; she was not living with him, but with her son. He is not able to contact her or make her talk to a ministry representative. As for his landlord; the appellant insists that he just wanted more money and that is why he would not provide verification of tenancy. The appellant states that given the circumstances it is not possible for him to provide the verification of tenancy requested by the ministry.

The panel finds it troubling that the ministry was not in attendance to help clarify the status and timeliness of the information received by the ministry. However; the panel notes that the legislation provides for the minister to request a person to provide information and/or verification of the information if required to determine eligibility for income assistance and to direct a recipient to supply the minister with information within the time and in the manner specified by the minister.

The panel also notes that pursuant to section 32(1) of the EAR that for the purpose of section (4) of the EAA, the period for which the minister may declare the family unit ineligible for assistance lasts until the recipient complies with the direction.

In view of the evidence, the panel finds that although, the appellant has stated that he has complied by supplying all the information he could provide, as requested by the ministry; he has failed to provide the information required to determine eligibility for assistance, in order to meet the legislated criteria, within the time and in the manner specified by the minister. Therefore, the panel finds that the ministry reasonably determined that all the requirements pursuant to section 10(1) of the EAA were not met.

In applying the legislation to the facts of the case, the panel finds that the ministry's decision was reasonably supported by the evidence and confirms the ministry's decision.