

PART C – Decision under Appeal

The decision at appeal is the Ministry's decision at reconsideration on December 21, 2011. At that time the decision of the ministry was that they could not approve the appellant's request for Income Assistance.

The ministry's decision was based on their finding that the appellant had not provided requested information in the time specified by the minister in order to allow the ministry to determine or audit the appellant's eligibility for income assistance. The legislation on which the ministry's decision was based is found at sections 10 (1) (2) and (4) of the *Employment and Assistance Act (EAA)* and Section 32 (1) of the *Employment and Assistance Regulation (EAR)*.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) section 10 (1), (2), and (4).
Employment and Assistance Regulation (EAR) Section 32 (1).

PART E – Summary of Facts

Documents before the ministry at reconsideration included the following:

- Letter from the ministry to the appellant dated July 20, 2011 asking the appellant to provide the following by August 2, 2011 in order for the ministry to determine her eligibility for assistance:
 1. Bank Statements for the past 6 months of any existing and closed bank accounts from all financial institutions;
 2. Money Mart and all other cheque cashing institutions statements and receipts;
 3. Tenancy Agreement or Intent to Rent forms since June 2009;
 4. Canada Revenue Agency 2012 and 2009 Notice of Assessment including all T4 and T5 slips;
 5. Valid identification such as BC Driver Licence or BCID, Social Insurance Card, and Care Card.
- Letter from the ministry to the appellant dated August 3, 2011 referring to their July 20, 2011 letter and stating that they had not yet received the requested material. They asked the appellant to provide the information by August 17, 2011.
- Letter from the ministry to the appellant dated August 17, 2011 telling the appellant that the ministry had not received the information requested in their letter of August 3, 2011, that the appellant was therefore no longer eligible for assistance and that the ministry was closing her file on August 17, 2011.
- A Request for Reconsideration form signed by the appellant on November 17, 2011 together with the documents listed below:
- Letter dated November 17, 2011 from an Advocacy group on behalf of the appellant asking the ministry not to adjudicate until additional information was submitted.
- A Ministry Shelter Information Form regarding the appellant and signed by her landlord on November 10, 2011.
- 3 pages of Income Tax information pertaining to the appellant and one pertaining to the Goods and Services Tax Credit.
- Cheque Cashing History of the appellant provided by a cheque cashing institution together with a Customer Registration Form in the name of the appellant.
- A Release of Information Form completed by the appellant on May 11, 2011.
- A note from an advocacy group stating that the appellant's Tenancy Agreement and an Intent to Rent for July 31, 2011 Form were submitted but these documents are not in the Record.

At the hearing the panel also had before it the following documents provided by the appellant along with submissions made on her behalf by an Advocacy group.

- A statutory Declaration signed by the appellant on March 23, 2012, giving her address over the previous two and a half to three years, telling of having secured tenancy elsewhere since mid-July 2011 and of having evidence of an "intent to rent" form along with "eviction notices July to November 2011. The appellant wrote that she does not have any other information that can support or confirm her tenancy agreements or residency periods.
- An undated letter to the ministry signed by a landlord confirming that the appellant had resided at his residence for approximately 3 years, that he had signed her Intent to Rent form but had never issued a receipt as there was no need for it, stating that no tenancy agreement had been signed because a verbal agreement was binding and became the legal contract, and giving his contact information should the ministry wish to be in touch with him.
- 2 pages of the appellant's Notice of Assessment from Canada Revenue Agency dated December 12, 2011.
- "10 Day Notice to End Tenancy for Unpaid Rent or Utilities" forms giving information on the

appellant as a tenant who had failed to pay her rent by July 1, August 1, September 1, October 1, November 1, 2011 and January 4, 2012.

The documents provided along with the appellant's submissions were not before the ministry at reconsideration. The panel found the documents regarding the appellant's tenancy situation to be clearly in support of documents and records before the ministry at reconsideration – namely the Shelter Information Form. The ministry had been supplied with these documents and had made no objection to them being accepted as evidence by the panel. So, based on these factors and on Section 22 (4) (b) the *EAA* the panel admitted them into evidence.

In their decision at reconsideration the ministry found that the appellant had provided acceptable information in terms of Bank Statements for the last 6 months, Money Mart and other cheque cashing institutions statements and receipts, Canada Revenue 2010 and 2009 Notices of Assessment as well as all T4 and T5 slips and Valid Identification. However, they found that she had not satisfied their request for Tenancy Agreement or Intent to Rent forms since June 2009.

Based on the documents the panel makes the following finding of fact:

1. The appellant failed to provide the ministry with requested information namely, Tenancy Agreement or Intent to Rent forms covering the period starting June 2009 by the set date of August 17, 2011 or up to the time of the reconsideration decision on December 21, 2011.

PART F – Reasons for Panel Decision

The decision to be made at appeal is whether the ministry's decision at reconsideration was reasonably supported by the evidence before them. At reconsideration the ministry found that they could not approve the appellant's request for Income Assistance.

The ministry's decision was based on their finding that the appellant had not provided requested information in the time specified by the minister in order to allow the ministry to determine or audit the appellant's eligibility for income assistance. The legislation on which the ministry's decision was based is found at sections 10 (1) (b), (2) and (4) of the *Employment and Assistance Act (EAA)* and Section 32 (1) of the *Employment and Assistance Regulation (EAR)*.

Section 10 (1) of the *EAA* states that, "*For the purposes of [] (b) determining or auditing eligibility for income assistance, hardship assistance or a supplement whether a person wanting to apply for income assistance or hardship assistance is eligible to apply for it, [] 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.*"

Section 10 (2) of the *EAA* states that "*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.*"

The wording of Section 10 (4) of the *EAA* is that "*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* is headed, "*Consequences of failing to provide information or verification when directed*" and states, "*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 ministry's conclusion at reconsideration was that as the appellant had not provided the requested shelter information dealing with the period since 2009, she was not eligible for Income Assistance. Further the ministry found that the appellant's ineligibility would continue until she complied with the direction of the minister and provided the required information.

Having looked at the documents provided by the appellant up to the time of the ministry's reconsideration decision the panel finds that the appellant failed to provide the ministry with requested information namely, Tenancy Agreement or Intent to Rent forms covering the period starting June 2009 by the set date of August 17, 2011 and up to the time of the reconsideration decision on December 21, 2011. This is information that the appellant is required to provide based on Sections 10 (1) and (2) of the *EAA*.

However, subsequent to that decision being made and prior to the hearing of the appeal the appellant

has submitted documents providing the requested information regarding her Tenancy and Intent to rent since 2009 with the exception of the period beginning December 1, 2011 and ending January 4, 2012. The appellant has also stated in her statutory declaration that she has no further information that can support or confirm her tenancy agreements and or residency periods.

With this new information the panel finds that the ministry's decision is not now reasonably supported by the evidence. Based on section 32 (1) of the *EAR* it would be unreasonable for the ministry to find that the appellant has not now complied with the ministry's direction. We therefore rescind the ministry's decision at reconsideration. That decision is overturned in favour of the appellant.