

PART C – DECISION UNDER APPEAL

(State the reconsideration decision)

The decision at appeal is the Ministry of Social Development's (the ministry) decision at reconsideration on 22 May 2012. At that time the decision was based on the ministry's 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 Section 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

(State the relevant Legislation considered)

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 the time of reconsideration included the following:

- A letter from the ministry to the appellant dated 03 February 2012 asking the appellant to provide the following documents prior to a telephone appointment scheduled for 14 February 2012: - a copy of her SIN card, current rent receipt (including client's name, address, amount of rent paid, date, and homeowner's name and daytime phone number), bank profiles and 90 day bank statements for all accounts, and Income Assessment for 2010
- A letter to the appellant dated 16 February 2012 advising her of a phone appointment scheduled for 28 February 2012 requesting that she provide the same documents as noted in the 03 February 2012 letter
- A Notice of Decision letter, dated 01 March 2012, mailed to the appellant advising she was ineligible for assistance under section 10 of the EAA for failure to provide the requested information
- An Employment and Assistance Review Application signed by the appellant and faxed 22 March 2012 with submission of 2007 Income Tax Notice of Assessment, a bank profile completed by Royal Bank and rent receipts. Bank statements for the previous 90 days were not provided.
- A letter, dated 23 March 2012, to the appellant informing her that her Employment and Assistance cheques for the month of May would be held until she provided Royal Bank statements for all transactions from 01 December 2012 to 23 March 2012 and the appellant's landlord's name and daytime phone number.
- Bank statements received from the appellant on 29 March 2012 covering the period 01 January 2012 to 26 March 2012
- A letter from the ministry, dated 19 April 2012, to the appellant requesting confirmation of bank deposits of \$40.93 on 10 February 2012, \$180.00 on 15 February, 2012, and \$200.00 on 19 March 2012 and noting her May cheques would be held until this information was provided.
- An invoice dated 6 December 2011 faxed 25 April 2012 showing a \$40.93 credit from a car rental company.
- A Request for Reconsideration form signed by the appellant on 04 May 2012 which included her reasons for seeking reconsideration

In her reason for Request for Reconsideration the appellant stated a bank deposit was a gift from her son who was residing and working out of province until mid-May. And, she would have him verify this as soon as she could get in touch with him.

In the Notice of Appeal dated 24 May 2012 the appellant stated the depositor was off the continent and then working "shut down" out of province and that the information would be available mid-June.

At the hearing the panel also had before it a submission, in the form of a faxed handwritten, signed note dated 11 June 2012, to the Employment and Assistance Tribunal. The appellant identified the writer as her son. The note verified that the writer had gifted to her the \$180.00 and the \$200.00 deposited in the appellant's account. There was no contact information included in the faxed note.

The ministry representative at the hearing reviewed the information in the 11 June 2012 submission of the appellant and stated that it appeared to provide the information the ministry had been seeking.

Having stated that, however, the ministry representative emphasized this information had not been available at the time of reconsideration.

The submission dated 011 June 2012 to the Employment and Assistance Appeal Tribunal from the appellant was not before the ministry at the time of submission. The panel admitted the document as evidence finding the document to be oral or written testimony in support of the information and records that were before the minister when the decision being appealed was made as set out in the EAA section 22 (4) (a) and (b).

PART F – REASONS FOR PANEL DECISION

(State the reasons for the panel decision)

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

The ministry's decision was based on its 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 section 10 (1)(b), (2), and (4) of the *EAA* and section 32 (1) of the *EAR*.

The applicable parts of this legislation is as follows:

EAA

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.

EAR

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's conclusion at reconsideration on 22 May 2012 was that, as the appellant has not provided the requested information related to deposits to her bank account of \$180.00 on 15 February and \$200.00 on 19 March 2012 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. At the hearing the ministry acknowledged the appellant's submission of 11 June 2012 provided the information it was seeking, and, that the ministry would now review the appellant's income assistance request.

In her reason for Request for Reconsideration the appellant stated the bank deposits were gifts from her son who was travelling and working out of province until mid-May. And, she would have him verify this as soon as she could get in touch with him. At the hearing she argued the ministry knew she was waiting for this information from her son and the ministry should have shown some flexibility in the consideration of providing her Income Assistance. The appellant acknowledged that she told the ministry she could provide the information by mid-May but she explained when her son returned from off continent to his home in another province he was only there for a day before leaving to work a "shut down" in the north. On 11 June 2012, subsequent to the reconsideration decision and prior to the appeal hearing, however, the faxed document was submitted to the Tribunal providing the requested information regarding the bank deposits.

Having reviewed the documents provided by the appellant up to the time of the ministry's reconsideration decision the panel finds the appellant failed to provide the ministry with requested information namely the confirmation of bank deposits of \$180.00 on 15 February, 2012 and \$200.00 on 19 March 2012.

The EAA section 10 allows the ministry to direct a person to supply the ministry within a time and in a manner specified by the ministry. It also allows the ministry to declare a family unit ineligible for

income assistance if the applicant or recipient fails to comply with the specified direction. Section 32 of the EAR also authorizes the minister to declare the family unit ineligible for assistance lasts until the applicant or recipient complies with the direction.

The panel finds the appellant did not provide the information requested by the minister within the time and in the manner specified by the minister. Therefore the panel finds the ministry reasonably found the appellant ineligible for income assistance as per EAA section 10. Further, the panel finds the ministry reasonably found the appellant ineligible until the requirements of EAR section 32 were met.

The panel finds the ministry decision to declare the appellant ineligible for income assistance was reasonably supported by the evidence and confirms the decision.