

APPEAL #

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (the ministry) reconsideration decision dated September 25, 2012. The reconsideration decision denied the appellant income assistance due to the appellant failing to submit all the documentation that the ministry had requested pursuant to Section 10(4) of the Employment and Assistance Act (EAA) in order to determine eligibility.

PART D – Relevant Legislation

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

PART E – Summary of Facts

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

- A T5007 in the name of the appellant stating an income of \$5855.00 for 2011.
- A lease agreement in the name of the appellant's mother dated May 2012 stating a monthly rent of \$520. The agreement states that no other people will be living in the apartment other than the appellant's mother.
- Bank statements for a savings and chequing account in the name of the appellant dated April 4 2011 to January 31 2012.
- A bill for BC Hydro in the name of the appellant's father for the premises in which the appellant's mother resides, dated May 18, 2012 for \$21.68.
- A Fido phone bill in the name of the appellant dated September 12, 2012 with a mailing address of the premises in which the appellant's mother resides.
- Three cheque stubs from ICBC. 1/ Jan 5, 2012 for \$20800 for "Death benefits of \$5000 for the first survivor and \$145 per week for 104 weeks as a result of MVA happened on 11DEC11." 2/ Dec 28 2011 for \$245.21 for "reimbursement of expenses.....MVA happened on 11DEC11." 3/ May 23, 2012 for \$2500 "Re: deceased MVA Dec 11, 2011. Funeral expense reimbursement."
- A hand written note dated September 7, 2012 reading that the cash deposits into the appellant's account were to pay personal debt or funeral costs for his mother or father.
- A letter to the appellant dated Aug 31, 2012 from the ministry warning the appellant that his file will be closed on September 28, 2011 if he cannot provide the requested documentation to the ministry needed to determine his eligibility for assistance.
- One page from a residential tenancy agreement in the name of the appellant and another person for a premises in a neighboring community from that of the appellant's mother.
- A letter dated August 17, 2012 to the appellant from the ministry requesting the appellant to provide documentation confirming a series of deposits that he made into his bank account ranging from May 02, 2011 to January 31, 2012.
- A bank profile confirmation completed by the appellant's bank dated Aug 2, 2012.
- Visa statements in the name of the appellant dated Aug 8, 2011, Sept 7, 2011, Oct 11, 2011, Nov 7, 2011, Dec 7 2011, Jan 9 2012 with a billing address of the premises in which the appellant's mother resides.
- A letter dated July 24 2012 to the appellant from the ministry requesting documentation.
- A Telus bill dated Jul 11, 2011 in the name of the appellant's mother for the premises in which she resides.
- A letter dated July 12 2012 to the appellant from the ministry requesting documentation.
- A letter dated July 4 2012 to the appellant from the ministry requesting documentation
- An application for income assistance from the appellant dated June 20 2012 indicating his address as the premises in which his mother resides.
- A letter dated January 12 2012 to the appellant from the ministry requesting the appellant contact the ministry to schedule an appointment.

- A letter dated January 17, 2012 to the appellant from the ministry advising his file will be closed on January 31, 2012 for failure to provided requested documents
- A letter dated November 30 2011 to the appellant from the ministry requesting the appellant contact the ministry to schedule an appointment.
- A letter dated November 15 2012 to the appellant from the ministry informing him of an appointment to meet.

Evidence that was submitted by the appellant with the Notice of Appeal was as follows;

- A Canada Revenue Agency Notice of Assessment (CRA) for tax year 2009 for the appellant. The assessment reads that the appellant made \$6645.00 taxable income in 2009.
- A utility bill from BC Hydro in the name of the appellant's father dated July 19, 2012 for the premises in which the appellant's mother resides.
- Receipts dated May 1 2010 to September 1 2011 for \$410 each. The receipts are show the funds received from the appellant and are signed by the appellant's mother but do not indicate an address to which they relate or the nature of the expense.

The panel asked the Ministry if they had any objections to accepting the new evidence and the ministry had no objections but told the panel that, based on evidence it had gathered, the ministry doubted the accuracy of the rent receipts provided by the appellant. The panel admitted the evidence pursuant to Section 22(4) EAA as being in support of information before the ministry at reconsideration.

At the hearing the appellant told the panel that he had been trying to gather the information that the ministry was requesting but he was not always able to find the documents because he does not keep good records and he has gone through some hardships, including his father being killed in a motor vehicle accident that made it difficult. He stated that he had tried to keep in contact with the investigating officer but acknowledged that some of the information that he sent in was incomplete. The appellant stated that there was no receipt for October 2011 because there were no more receipts available in the booklet. When asked by the panel if he had provided his 2011 Notice of Assessment (NOA) from the CRA he said that he has not filed his taxes for 2011 yet so he is unable to provide his NOA.

At the hearing the ministry told the panel that the reason the appellant's file was chosen for review was because the appellant had applied for benefits in the past and he did not keep his appointments with the ministry as well some of the information he provided was found to be false. When he made his second application for benefits on June 20, 2012 his application was flagged for review by an investigations officer.

The ministry told the panel that it had requested the rent receipts for May 2010-October 2011 because the appellant had stated on his application that he was living with his parents however the ministry spoke to the landlord of the apartment building and the landlord said that the appellant only visits but does not live there. Upon viewing the appellant's bank statements the ministry noted a \$200 payment to BC Hydro on January 10, 2012 and therefore requested a bill to show the details of this payment including the address. The ministry also explained to the panel that they obtained a rental

document showing that the appellant and his girlfriend rented an apartment together during time that the appellant claims to have been living with his parents. The ministry contacted the landlord of this apartment and asked if the appellant was living there and the landlord said he was a resident in the building with his girlfriend.

The ministry continued that it had been very patient with the appellant. The appellant was sent 4 letters to remind him what additional documents that he needed to submit. The investigating officer had offered to assist the appellant in calling the CRA to request the tax slips to confirm his income for 2011 but the appellant has not followed up after the first attempt to reach the CRA on the phone was unsuccessful. He told the panel that he still plans on calling the CRA for his tax slips but has not done it yet.

The appellant told the panel that the BC Hydro bill was for the address of his girlfriend's apartment but that he has never lived at that address and he does not have a copy of the bill or any supporting documents for the payment. He explained that although he and his girlfriend are listed as the tenants on the rental agreement for the apartment, he has never lived there. He added that the landlord was incorrect when he told the ministry that the appellant was living at the address with his girlfriend. The appellant went on to say that the landlord at his parent's building was not correct when he told the ministry that the appellant does not live in the building. Regarding the income tax NOA for 2011 the appellant told the panel that he thought the 2009 NOA that he provided was sufficient since it was filed in 2011.

The panel finds that:

- The appellant has not filed his personal income tax for 2011 and he has not contacted the CRA for copies of his income slips.
- The appellant made a payment to BC Hydro on Jan 10, 2012 for \$200 that was made for the apartment that is rented by him and his girlfriend.
- He has provided the ministry with receipts for May 2010 – September 2011 but they do not indicate an address to which they relate or the nature of the expense and he has not provided a receipt for October 2011 as requested by the ministry.

PART F – Reasons for Panel Decision

The issue in this case is the reasonableness of the ministry's reconsideration decision that held that the appellant is ineligible for assistance because he has failed to provide the information and verification requested by the ministry.

Section 10 of the EAA reads as follows:

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.

The Employment and Assistance Regulations (EAR), Section 32 reads:

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 position is that the appellant has not provided the information required to determine his eligibility for assistance. The ministry has contacted the appellant many times to remind him what information is required, however the information he has provided is incomplete.

The appellant's position is that he has tried to gather the information requested by the ministry but has not been able to find all of the documents required.

The panel finds section 10 of the EAA gives the ministry the discretion to request verification of

documents that relate to the eligibility of the appellant. In consideration of the inconsistencies in the information provided by the appellant and the information gathered by the ministry, the panel finds that the ministry was reasonable in requesting additional documents to verify the appellant's eligibility. The panel finds that the appellant has not provided all of the documents that the ministry has requested. The missing documents are the rent receipts for May 2010 through October 2011, his NOA for the tax year 2011 or slips for 2011 in lieu of the Notice, and the BC Hydro bill confirming the details of the January 2012 payment made from the appellant's bank account. Although the appellant provided receipts for May 2010 through September 2011 purporting to confirm rent paid, the ministry disputed the accuracy of these receipts, and the panel finds that the receipts lack the detail to verify that payments have been made specifically for rent at the premises in which the appellant's mother resides. The panel finds that these documents fall under the description of EAA section 10 as "relates to the eligibility of the family unit for income assistance" and therefore the ministry was reasonable in requesting them from the appellant. The panel finds that the appellant failed to provide the documents to the ministry. The panel finds that the ministry was reasonable to find that the appellant is ineligible for assistance due to his failure to provide the requested documentation.

The panel finds that the ministry's decision was a reasonable application of the applicable enactment in the circumstances of the appellant and confirms the decision.