

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development (the ministry) dated 18 October 2012 that found that the appellant was not eligible for income assistance pursuant to section 10(4) of the Employment and Assistance Act as the appellant had not complied with the direction of the ministry under section 10(2) of the Act to supply verification of information relating to his eligibility for income assistance.

PART D – Relevant Legislation

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

PART E – Summary of Facts

Both the ministry and the appellant failed to appear at the hearing at the scheduled time and place. After verifying that the parties had received notification of the hearing at least 2 business days before the hearing date by examining the Notice of Hearing fax transmit confirmation report for the ministry and the Canada Post tracking report for the appellant, the hearing proceeded under section 86(b) of the Employment and Assistance Regulation.

The evidence before the ministry at reconsideration begins with the section completed by the ministry in the appellant's Request for Reconsideration, dated 03 October 2012. There, the ministry sets out the following chronology:

- 18 September 2012. A ministry worker attended a Prolific Offender Management (POM) meeting and was informed that the appellant has reported to his probation officer that he is working full-time in another city with X Inc. and has provided pay stubs, the first of which indicates that the appellant received \$846.13 on 31 August 2012. The ministry noted that there is a Memorandum of Understanding for POM allowing all parties to share information.
- 18 September 2012. The appellant was sent a signal letter for October benefits, requesting pay slips and confirmation of where he was living. This letter indicated that a decision on the appellant's eligibility would be determined once all the documentation is received.
- 26 September 2012. The appellant attended the ministry office for October 2012 benefits. The appellant provided a letter dated 26 September that was attached to his Request for Reconsideration indicating that he was still living at his address on file and will continue to live there. The appellant was informed that the ministry had received information through POM that he is working. The appellant denied that he was working and told the worker that the document that he had provided to his probation officer was just that he had an offer of employment and that he had not actually started. The worker informed the appellant that his probation officer reported to POM that he had started working and had provided her with pay stubs. The appellant refused to provide pay stubs and refused to acknowledge that he was working. The appellant commented to the worker that if "hypothetically speaking" he was working and had made about \$2000, his benefits would be cut off. The appellant was informed of his ineligibility for further income assistance until pay stubs were provided.
- 03 October 2012. The appellant attended the ministry office to pick up the reconsideration package. At that time the worker attempted to give the appellant another chance to provide documents by informing him again that eligibility could be established if he provided pay stubs but that without this documentation his current eligibility cannot be established and he will be denied for failure to provide information. Furthermore, the appellant was informed that if he is no longer working, the ministry will also require a Record of the Employment. The appellant still refused to provide the required information.
- In his Request for Reconsideration dated 03 October 2012, the appellant writes:
"I was denied based on informations that were provided without my knowledge. I believe I was wrongly accused of being employed when I wasn't."

In his Notice of Appeal dated 23 October 2012, the appellant states that he was unable to have legal counsel; he will get legal advice for his appeal hearing.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry determination that the appellant was not eligible for income assistance pursuant to section 10(4) of the EAA was reasonably supported by the evidence or was a reasonable application of the applicable legislation in the circumstances of the appellant. The ministry had determined that the appellant had not complied with the direction of the ministry under section 10(2) of the Act to supply verification of information relating to his eligibility for income assistance, specifically with respect to any employment in another city with X Inc.

The relevant legislation is from section 10 of the EAA:

Information and verification

10

(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.

(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.

And from section 32 of the EAR:

Consequences of failing to provide information or verification when directed

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.

The position of the ministry, as set out in the reconsideration decision, is that while the appellant disagrees with the accuracy of the information provided to the ministry by the probation officer, the ministry is satisfied that that information establishes that the appellant has been employed and received \$846.13 in employment income from X Inc. on 31 August, 2012. Under section 10(2) of the Act, the minister may require a recipient of income assistance to supply verification of information that relates to eligibility for income assistance. In addition, under section 10(4) of the Act, if a recipient fails to comply with the direction under this section, the Minister may declare the recipient ineligible for income assistance until the recipient complies with the direction, as prescribed by section 32 of the Regulation. As the appellant did not comply with the direction to supply verification of information relating to the appellant's eligibility for income assistance, the ministry concluded that he was not eligible for income assistance at this time.

As the appellant did not appear at the hearing, the panel considers his position to be that described in the Request for Reconsideration. The appellant disputes the accuracy of the information provided to the ministry by his probation officer and that he was wrongly accused of being employed when he was not, maintaining, according to the ministry record, that the document that he had provided to his probation officer was an offer of employment and that he had not started the work. He contends he otherwise complied with the ministry request, providing verification that he continued to live at the address on file with the ministry. He further holds that the information passed to the ministry by his probation officer, whatever its accuracy, was given without his knowledge.

The panel finds that under section 10 (2) of the EAA the minister has the authority to direct the

appellant to supply verification of information received by the ministry if that information relates to the eligibility for income assistance. In the present appeal, the ministry received information, through the POM program, that the appellant had earned employment income in August 2012. The information provided was detailed, including the name of the employer, the date of the pay stub and the exact amount of monies received by the appellant. The panel considers this level of detail sufficient to warrant questions by the ministry regarding the appellant's eligibility for income assistance. On this basis, the panel finds that the ministry, in accordance with the legislation, was reasonable in directing the appellant to supply information verifying his eligibility for income assistance. The panel finds that the appellant has not responded to the ministry's direction, either by supplying the pay slips for the income the ministry has reasons to believe he earned, or by providing information that would substantiate his claim that he was not employed during the period in question.

Accordingly, the panel finds the ministry decision that the appellant was not eligible for income assistance pursuant to section 10(4) of the EAA was reasonably supported by the evidence. The panel therefore confirms the ministry decision.