

PART C – DECISION UNDER APPEAL

The decision under appeal is the ministry's reconsideration decision dated October 23, 2012 which held that the appellant was not eligible for income assistance because at the time of his application his assets exceed the legislated limit under section 11(2) of the *Employment and Assistance Regulation*, and that the appellant had not provided sufficient information to establish that his assets are now below the legislated limit.

PART D – RELEVANT LEGISLATION*Employment and Assistance Regulation (EAR)*

Section 1 Definitions "asset", and

Section 11 Asset limits

PART E – SUMMARY OF FACTS

The parties agreed to proceed in this matter via written submissions.

The evidence before the minister at reconsideration included:

- the appellant's application for income assistance stating he had assets in the amount of \$3,500.00 in cash at home, that he was planning to use for purchasing a vehicle and \$8,748.78 in his spouse's bank account, totaling \$12,248.78;
- a letter to the appellant dated September 19, 2012 requesting that the balance of a \$5000.00 loan be repaid to the lender;
- a letter from the appellant's landlord dated October 1, 2012 stating the appellant had not paid the monthly rent and putting the appellant on notice that if he does not pay next month he has to move;
- a sales receipt (date illegible) for a washing machine purchased for \$300.00;
- a Visa bill for the period ending September 7, 2012 with a current balance owing of \$187.12;
- a Government of Canada Statement of Account showing scheduled monthly loan payments of \$84.86;
- a Telus bill dated September 1, 2012 for internet and TV services in the amount of \$50.58;
- prescription medication charges for two family members dated September 24, 2012, of \$32.17 and \$52.47, totaling \$84.64;
- ICBC car insurance dated August 31, 2012 made out to the appellant showing monthly payments by installments of \$133.76; and
- bank statements of the account belonging to the appellant's wife covering the period from May 24, 2012 to August 20, 2012, showing a balance of \$,748.78.

Included as part of the appellant's written submission were the following documents:

- a letter dated September 24, 2012 thanking the appellant for repaying the \$5000.00 owed (including the name and contact information of the lender);
- a bank statement of the savings account belonging to appellant's wife printed October 30, 2012 and covering the period from September 30 to October 22, 2012, the statement shows an opening balance of \$.19, two government cheques deposited, and the funds withdrawn leaving a closing balance of \$.33; and
- a list of items for which money that has been spent by the appellant from August 20 to November 16, 2012, the total amount reported as expended was \$11,636.44.

The panel determined the letter dated September 24, 2012 and the additional bank are admissible under section 22(4) of the *Employment and Assistance Act (EAA)* as they are in support of the records before the minister at reconsideration.

The panel determined the list of items for which money has been spent by the appellant, to be unsupported by receipts or additional documentation; further where there is information available from documents before the ministry, it is unclear how the calculations were made for example; the amount listed for car insurance equals 3 monthly installments, the amount under expenses loan from the state equals 4 monthly installments; and the internet cable TV fees listed do not equal either 3 or 4 months payments. For these reasons, the panel admits this list, however for the reasons set out above places little weight on it.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is whether the ministry acted reasonably in determining the appellant was not eligible for income assistance because at the time of his application his assets exceed the legislated limit under section 11(2) of the *Employment and Assistance Regulation*, and that the appellant had not provided sufficient information to establish that his assets are now below the legislated limit.

The relevant legislation is set out in the EAR, Definitions and Section 11(2)(b) as follows:

Definitions

1 (1) In this regulation:

"asset" means

- (a) equity in any real or personal property that can be converted to cash,
- (b) a beneficial interest in real or personal property held in trust, or
- (c) cash assets;

Asset limits

11 (2) A family unit is not eligible for income assistance if any of the following apply:

- (a) subject to paragraph (c), a sole applicant or sole recipient has no dependent children and has assets with a total value of more than \$2000;
- (b) subject to paragraph (c), an applicant or a recipient has one or more dependants and the family unit has assets with a total value of more than \$4000;
- (c) an applicant or a recipient receives accommodation and care in a private hospital or a special care facility, other than an alcohol or drug treatment centre, or is admitted to a hospital for extended care, and
 - (i) has no dependants and has assets with a total value of more than \$5000, or
 - (ii) has one or more dependants and the family unit has assets with a total value of more than \$10000.

(B.C. Reg. 197/2012)

In his submission the appellant states that he is unemployed and has no income, his wife does not work, she attends school and needs transportation. He says they have no monthly allowance to cover their monthly expenses. To support his claim, the appellant has provided the letter dated September 24, 2012 showing repayment of the \$5000.00 loan, the bank statement of the account belonging to appellant's wife covering the period from September 30 to October 22, 2012, and a list of his expenses from August 20 to November 16, 2012.

The ministry relies on the reconsideration decision. In that decision, the ministry accepted the \$300.00 expense for the washing machine as confirmation the appellant had used that amount from his cash assets. The ministry determined that the appellant had not provided evidence he had repaid the \$5000.00 loan nor had the appellant provided confirmation of the purchase price of a vehicle. As a result the ministry had insufficient information to establish that the appellant's assets were below the legislated limit.

At the time of appellant's application for income assistance the family had assets totaling \$12,248.78. This panel finds the letter dated September 24, 2012 provided by the appellant for this hearing to demonstrate that he has repaid the \$5000.00 loan, however the panel notes there is no record of the transaction, such as a cancelled cheque or bank record. Even though in the appellant's Request for Reconsideration he was able to provide documentation regarding expenses such as prescription drug receipts, Telus internet/TV bill and ICBC insurance, the list of expenses submitted was as previously stated unsupported by receipts or additional documentation. The statement of the savings account belonging to appellant's wife covering the period from September 30 to October 22, 2012, shows very limited activity in the account, two government cheques were direct deposited into the account, the funds were then withdrawn in one cash transaction leaving \$.33. There is no record showing transactions between August 20th and September 24th or where the remainder of approximately \$6000.00 in family assets went. This account previously had point of sale transactions with grocery stores and other retailers, it did not show transactions for rent or utility payments or for cash withdrawals in amounts that could reasonably be considered to be for those purposes. Given the evidence before this panel, we find the ministry's determination that the appellant's family assets were more than the \$4000.00 limit set out in EAR, Section 11(2)(b) and therefore the appellant continues to be ineligible for income assistance was a reasonable application of the applicable enactment in the circumstances.