

### PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development (the Ministry), dated January 30, 2013. The decision was that the appellant was ineligible for February income assistance as per section 10 (2) of the *Employment and Assistance Regulations (EAR)* which sets out that a family unit is not eligible for income assistance if the net income of the family unit determined under Schedule B equals or exceeds the amount of income assistance determined under Schedule A for a family unit matching that family unit.

The ministry held that the appellant's net employment earnings in December 2012 exceeded his income assistance rate thus making him ineligible for February 2013 assistance.

### PART D – Relevant Legislation

*Employment and Assistance Regulations (EAR)* section 1, 10, 28, Schedule A & B

## PART E – Summary of Facts

The evidence before the minister at reconsideration included the following:

- Records of Employment (ROE) for the appellant dated November 23, 2012 and November 1, 2012;
- Confirmation of Earnings by the appellant, dated January 10, 2013, January 12, 2013, and January 11, 2013;
- An Overpayment Chart regarding the appellant covering Assistance Months: 2012Oct – 2012Nov.
- The appellant's Request for Reconsideration signed by him on January 24, 2013.

When he filed his appeal, the appellant wrote that he disagreed with the Ministry's reconsideration decision because, "I don't believe that the seriousness of my domestic, social and financial situation was taken at all into any meaningful account. The "List of solicitors" you gave me to aid in my defence was woefully inadequate and obsolete: tel. numbers given were n.i.s. or given to someone else. Now, \$45 a month will be deducted from my cheque, and I may be denied benefits entirely. This is persecution."

The appellant did not attend the hearing, having advised the Tribunal that he wished the panel to proceed with the hearing in his absence which the panel did in accordance with section 86 (b) of the *EAR*.

In his Request for Reconsideration the appellant told of losing his home due to persistent inability to pay the full rent; having to place his belongings in storage and relocate to a Centre where he lacked privacy. He describes losing his job on October 24<sup>th</sup>, 2012 and says he was fortunate to obtain his current home earlier that month. He describes the funds he had to provide associated with moving and settling in his new home and his failure to find a room-mate with whom he would be able to share the cost of rent. He states that in 2009 he worked for 11 months, in 2010 for 9 months, in 2011 for six months and in 2012 for less than four months. He wrote that it is persistently difficult for him to obtain work and when he does, he has difficulty keeping the job. He ended by stating that any overpayment was desperately needed and that the money went to where it needed to go.

There being no statement from the appellant denying statements by the ministry in their reconsideration decision, the panel finds that the following are the relevant facts in the appeal.

1. The appellant is a single employable recipient of income assistance with no dependants.
2. The appellant's net earnings as noted in the Confirmation of Earnings in December, 2012 were \$1,219.54. (\$664.25 - Dec. 7<sup>th</sup> and \$555.29 - Dec. 12<sup>th</sup>.)

## PART F – Reasons for Panel Decision

The issue to be decided at appeal is whether the January 30, 2013 decision of the Ministry at reconsideration was a reasonable application of the applicable enactment in the circumstances of the appellant. The applicable enactment is the *Employment and Assistance Regulations (EAR)*.

That decision was that the appellant was ineligible for February 2013 income assistance as per section 10 (2) of the *EAR* which sets out that a family unit is not eligible for income assistance if the net income of the family unit determined under Schedule B equals or exceeds the amount of income assistance determined under Schedule A for a family unit matching that family unit.

The ministry held that the appellant's net employment earnings in December 2012 exceeded his income assistance rate thus making him ineligible for February 2013 assistance.

Section 1 (1) (a) of the *EAR* defines "earned income" as meaning, "*any money or value received in exchange for work or the provision of a service.*"

Section 10 (2) of the *EAR* states that "*A family unit is not eligible for income assistance if the net income of the family unit determined under Schedule B equals or exceeds the amount of income assistance determined under Schedule A for a family unit matching that family unit.*"

Section 28 of the *EAR* which deals with Amount of Income Assistance states that "*Income assistance may be provided to or for a family unit, for a calendar month, in an amount that is not more than (a) the amount determined under Schedule A, minus (b) the family unit's net income determined under Schedule B.*"

Schedule A sets out Income Assistance Rates. It states at Section 1 (1): "*the amount of income assistance referred to in section 28 (a) of this regulation is the sum of (B.C. Reg. 48/2010) (B.C. Reg. 197/2012)*

*(a) the monthly support allowance under section 2 of this Schedule for a family unit matching the family unit of the applicant or recipient, plus*  
*(b) the shelter allowance calculated under sections 4 and 5 of this Schedule."*

Section 2 (1) gives the amount for the monthly support allowance for a sole applicant/recipient and no dependent children who is under 65 years of age as \$235.00.

Section 4 (2) gives the amount for the monthly shelter allowance for a family of one person as \$375.

Schedule B at Section 2 states that, "*The only deductions permitted from earned income are the following:*

- (a) any amount deducted at source for*
  - (i) income tax,*
  - (ii) employment insurance,*
  - (iii) medical insurance,*
  - (iv) Canada Pension Plan,*
  - (v) superannuation,*
  - (vi) company pension plan, and*
  - (vii) union dues.*

Section 3 (1) of Schedule B reads, "*Subject to subsection (2), the amount of earned income calculated under subsection (6) is exempt for a family unit.*"

Section (6) of Schedule B reads, "*The exempt amount for a family unit that qualifies under this section is calculated as follows:*"

- (a) in the case of a family unit to which subsection (3) applies, the exempt amount is calculated as the lesser of*
  - (i) \$200, and*
  - (ii) the family unit's total earned income in the calendar month of calculation.*

The appellant does not contest the information contained in the Confirmation of Earnings dated January 11, 2013 that his earnings at December 7, 2012 were \$664.25 and \$555.29 at December 12, 2012, thus making a total of \$1,219.54 earned in December 2012.

The appellant also does not contest that as a single employable recipient of income assistance with no dependents his monthly assistance rate is \$610 (\$235 for support and \$375 for shelter).

Section (6) (a) (i) of Schedule B sets out that as a sole employable recipient the appellant is eligible for a \$200 monthly earnings exemption.

At reconsideration the ministry made an arithmetic calculation based on the earnings circumstances of the appellant and on the applicable legislation. This led the ministry to find that the appellant's net employment earnings less \$200 is \$1019.54, and further that this amount is in excess of the income assistance rate applicable to the appellant, with the result that the appellant was ineligible for February assistance.

The panel finds this to have been a reasonable application of the applicable legislation in the circumstances of the appellant.

In their decision at reconsideration the ministry stated that the appeal supplement which had been provided by the appellant for February will be repayable to the ministry.

At the hearing the ministry explained this supplement by advising that upon signing his Request for Reconsideration the appellant had received a Reconsideration supplement of \$610 for the month of February. Should this panel uphold the ministry's reconsideration decision then that amount would be repayable to the ministry by the appellant at a monthly rate of approximately \$20. The panel notes that pursuant to section 81 of the *EAR*, appeal supplements are not appealable to the Tribunal.

Based on the analysis above the panel finds that the ministry's decision at reconsideration that the appellant was not eligible for income assistance for February 2013 was a reasonable application of the applicable enactment, that being the *EAR*, in the circumstances of the appellant.

The panel therefore confirms the ministry's decision.