

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry)'s reconsideration decision dated April 2, 2013 that found that the appellant was not eligible for a shelter allowance for March 2013 pursuant to section 10(4) of the *Employment and Assistance Act* (EAA) as the appellant had not complied with the direction of the ministry under section 10(2) of the EAA to supply the requested documentation necessary to determine her eligibility for income assistance. The reconsideration decision also found that the appellant remains ineligible for shelter allowance until she complies with the direction to supply shelter information that can be verified with a landlord, property owner or property manager, pursuant to section 32(1) of the *Employment and Assistance Regulation* (EAR).

PART D – Relevant Legislation

Employment and Assistance Act (EAA) section 5, 10
Employment and Assistance Regulation (EAR), section 1, 11, 28, 32(1) and Schedule A, sections 1 and 4

PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration consisted of:

- 1) The appellant's Request for Reconsideration (RFR) with fax cover sheet dated March 18, 2013 and letter in which the appellant requests that her shelter allowance be disbursed as she is sharing an apartment with another party who does not wish to have her information provided to the ministry for personal reasons and she does not have any other resources for shelter. The appellant also states that she had found an apartment but does not have references so she was unable to secure the apartment. The appellant also requests that the ministry consider her request under hardship allowance, or that the ministry consider short hotel stays as an alternative until she find more permanent shelter; and
- 2) Shelter Information with rent receipt dated March 1, 2013 indicating that the appellant's portion of rental for the month of March 2013 is \$500 and her security deposit was \$250.

With the consent of both parties, the appeal proceeded by way of a written hearing, so neither party attended the hearing.

Admissibility of New Information

With her Notice of Appeal the appellant provided a letter stating that the ministry's records are incomplete, that she was told she needed to provide verifiable shelter information and that she had sent receipts for March and now April and she is waiting for reimbursement from them. The appellant states that the hotel receipts are what she understood the second reconsideration request was for and not the one that was already processed. The appellant also included an invoice for a hotel stay from April 7 to 9, 2013 for a cost of \$159.11.

Prior to the hearing the ministry provided a written submission dated July 16, 2013 stating that on May 3, 2013 the appellant submitted a Shelter Information indicating that her rent was \$500 and requesting the full shelter allowance of \$375. The ministry states that as a representative was not able to verify the shelter arrangements and as the appellant had refused to submit additional information regarding the shelter arrangements, the appellant was determined ineligible for any March 2013 shelter allowance in the reconsideration decision dated April 2, 2013. The ministry also states that in reviewing the appellant's file and the credit card statement dated March 27, 2013 that confirms \$173 in credit card charges, the ministry is satisfied that these charges verify \$173 in actual shelter costs for March 2013. The ministry states that in accordance with Section 28 and Schedule A(4)(2) of the Employment and Assistance Regulation, the ministry finds that the appellant is eligible for \$173 in shelter allowance for March 2013 but not the full \$375 shelter allowance. The ministry also provided a copy of the appellant's credit card statement showing hotel charges of \$173 during March 2013.

The panel has admitted the new information of the appellant and the ministry into evidence as it relates to the appellant's shelter and is in support of information and records that were before the ministry at the time of reconsideration, in accordance with section 22(4) of the *Employment and Assistance Act*.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's reconsideration decision, which found that the appellant was not eligible for a shelter allowance for March 2013 pursuant to sections 10(2) and (4) of the *Employment and Assistance Act* (EAA) as she had not provided the requested documentation, and that she will be ineligible for a shelter allowance until she complies with the direction to provide shelter information that can be verified pursuant to section 32 of the EAR, was reasonably supported by the evidence or was a reasonable application of the legislation in the appellant's circumstances.

The relevant sections of the legislation are as follows:

Hardship assistance

- 5.** (1) Subject to the regulations, the minister may provide hardship assistance to or for a family unit that
- (a) is eligible for it, and
 - (b) is not eligible for income assistance

Information and verification – EAA section 10(2) and (4)

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.

Consequences of failing to provide information or verification when directed – EAR section 32(1)

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 although the appellant provided shelter information indicating that her rent for March 2013 was \$500 they were unable to verify that information, and as the appellant refused to provide additional information so that the ministry could verify her shelter information as required by EAA section 10(2), she was ineligible for shelter allowance pursuant to EAR section 32(1) until she complies with the direction to supply the information.

As set out in the submission, the ministry revised its position after reviewing the appellant's credit card statement, finding that the appellant was eligible for a shelter allowance of \$173 based on her actual shelter costs in accordance with EAR section 28. However, the ministry found that the

appellant was still not eligible for the full shelter allowance of \$375 as the verifiable receipts provided only confirmed actual shelter costs of \$173.

The appellant's position, as set out in the RFR and Notice of Appeal is that she has submitted the requested documents as she has provided the shelter information with rent receipt and credit card statements confirming her hotel stays. With her Notice of Appeal the appellant states that she is waiting for reimbursement of her April 2013 hotel credit card charges. The appellant's position is that if her request is not granted for shelter allowance as per regular income assistance the ministry should grant her request as a hardship grant.

The panel finds that under section 10(2) of the EAA the ministry has the authority to direct the appellant to supply documentation to verify information received by the ministry if that information relates to the eligibility for income assistance. In the present appeal the ministry requested shelter information so that they could verify the appellant's residence and shelter costs. Although the appellant submitted the shelter information form indicating that she was residing at an apartment and that her March 2013 rent was \$500, the ministry was not able to verify that information with the landlady or landlord. When the ministry requested further information the appellant refused to provide that information stating that the other party did not want the ministry to know who he or she was for personal reasons.

When the ministry was not able to verify the monthly shelter information of \$500 for March 2013, the ministry then reviewed the appellant's credit card statements showing actual hotel charges of \$173 and found the appellant eligible for shelter allowance of \$173 based on her actual shelter costs, in accordance with EAR section 28. The panel finds that the ministry's submission accepted that the reconsideration decision, with respect to the appellant's March 2013 shelter allowance was not supported by the evidence available to the ministry at the time it made the reconsideration decision; with the result being a new/revised decision.

The panel notes that there appears to be considerable inconsistencies in the appellant's evidence in that on the one hand she states that she was sharing an apartment with a party but then on the other hand then states that she paid for hotel costs for shelter allowance. The panel further notes that the appellant's account summary indicates that amounts were paid for a hotel but there is no further information indicating why the hotel was required just for two nights out of the month, where the appellant actually resided the rest of the month, or why, if she was sharing an apartment with someone else, a hotel was needed for two nights. However, as the ministry accepted the appellant's hotel receipts and made a new decision that the appellant was eligible for \$173 for shelter for March 2013, the panel is also prepared to accept the hotel costs as confirmation of the appellant's actual shelter costs for March 2013. Accordingly, the panel finds that the reconsideration decision which found that the appellant was not eligible for March 2013 shelter allowance, was not reasonable.

Although the appellant has submitted a hotel booking showing that \$159.11 was charged to her credit card for a hotel stay for April 7 and 8, 2013, the panel notes that this information, while in support of the information before the ministry at the time of reconsideration, was not available to the ministry when the reconsideration decision was made. Although the ministry's submission dated July 16, 2013 was provided after the appellant's Notice of Appeal submitting her hotel costs for April 2013, the ministry did not, in its submission, provide any information to establish whether the ministry found the appellant eligible for shelter allowance for April 2013 in the amount of the hotel costs of \$159.11 or any other amount.

Given the inconsistencies in the appellant's evidence with respect to her March 2013 residence and the lack of any other information to establish the appellant's residence in April 2013, the panel finds that the hotel booking alone is not sufficient to establish the appellant's shelter costs for April 2013 as

there is no indication of where the appellant resided for the rest of the month. Although the hotel booking is addressed to the appellant, there is also no information provided to confirm whether the hotel was booked for her or for someone else and there is no information to establish that the ministry verified the April 2013 shelter costs. Accordingly, the panel finds that the ministry was reasonable in determining that the appellant remains ineligible for ongoing shelter allowance pursuant to EAR section 32(1) until she complies with the requirements of EAA section 10(4) to provide shelter information that can be verified by the minister.

With respect to the appellant's request that the ministry consider her request for shelter allowance be granted as a hardship grant pursuant to EAA section 5, the panel notes that the reconsideration decision did not specifically address this request and the reconsideration decision only refers to eligibility for income assistance. However, as the panel has determined that the ministry's reconsideration decision was not reasonable, it is not necessary to address the appellant's request that the ministry consider her request for shelter allowance to be granted as a hardship grant.

Conclusion

As the ministry reviewed the appellant's documentation regarding her March 2013 shelter allowance and subsequent to the reconsideration decision determined that the appellant was eligible for some shelter costs for March 2013, the panel finds that the ministry's reconsideration decision which found that the appellant was not eligible for March 2013 shelter costs was not reasonable.

The panel finds that the ministry's decision that the appellant remains ineligible for ongoing shelter allowance until she complies with the requirements of EAR section 32(1) and provides verification of information of her shelter costs as directed by the ministry pursuant to EAA section 10(4) was reasonably supported by the evidence and a reasonable application of the legislation in the appellant's circumstances.

The panel therefore rescinds the ministry's reconsideration decision.