

PART C – Decision under Appeal

This is an appeal of the Ministry of Social Development's ('the ministry') reconsideration decision dated June 10, 2013, in which the ministry denied assistance to the appellant for May and June 2013. The ministry determined that earnings received by the appellant in March and April 2013, after the allowable earnings exemption for a single employable person, exceeded his income assistance rate and found him ineligible for May and June 2013 assistance.

The ministry relied on sections 1, 10 and 28 and Schedules A & B of the *Employment and Assistance Regulation* (EAR).

PART D – Relevant Legislation

EAR sections 1, 10, 28, 33 and Schedules A & B

PART E – Summary of Facts

The following evidence was before the ministry at the time of its reconsideration:

- The appellant was a sole recipient receiving \$395 per month shelter allowance (sent to his landlord) and \$215 support allowance, for a total of \$610.
- A bank record showing a deposit of \$1511.43 from [employer] on March 15, 2013.

(The panel notes a discrepancy between the March 15, 2013 payment recorded in the reconsideration decision and the appeal record. The former is \$1411.43 while the correct amount is \$1511.43. However, this does not have a bearing on the panel's decision.)

- A pay record from [employer] for pay period ending March 22, 2013 showing net pay of \$1623.84. The pay date is March 29, 2013.
- A bank record showing a negative balance of \$5.55 on March 29, 2013, a deposit of \$1723.84 from [employer] and Interac payments on April 1, 2013.
- A pay record from [employer] for pay period ending April 5, 2013 showing net pay of \$840.66. The pay date is April 12, 2013.
- A bank record showing a deposit of \$840.66 from [employer] on April 12, 2013.
- A Record of Employment for the appellant showing insurable earnings of \$6524.80 and the last day worked as April 5, 2013.
- A release form signed by the appellant on May 15, 2013, disclosing his earnings and assets and consenting to allow the ministry to review his personal financial and government records.

No additional evidence was received at the hearing.

PART F – Reasons for Panel Decision

The issue to be decided is whether the ministry's decision to deny assistance to the appellant for May and June 2013 based on earnings received by the appellant in March and April 2013 in excess of his income assistance rate, was reasonably supported by the evidence, or a reasonable application of the applicable enactment in the circumstances of the person appealing the decision.

Section 1 of the *Employment and Assistance Regulation (EAR)* states:

"earned income" means

- (a) any money or value received in exchange for work or the provision of a service,

The appellant does not dispute that the deposits from [employer] into his bank account met the definition of "earned income." The ministry was reasonable to categorize it thusly.

Sections 10 and 28 of the EAR state:

Limits on income

- 10 (2)** 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.

Amount of income assistance

- 28** 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 of the EAR sets out support and shelter amounts for recipients.

As a sole recipient, the appellant is entitled to a support allowance of:

Sole applicant/recipient and no dependent children	Applicant/recipient is under 65 years of age	\$235.00
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The appellant is entitled to a shelter allowance of:

Item	Column 1 Family Unit Size	Column 2 Maximum Monthly Shelter
1	1 person	\$375

These amounts total \$610. The appellant did not dispute the amount he was eligible to receive.

Schedule B sets out exemptions for earned income for the purpose of calculating income received by a recipient.

Income received in exchange for work or the provision of a service is not exempt under sections 1 and 2 of Schedule B. However, pursuant to section 3, as a sole recipient, the appellant is permitted to earn \$200 per month without affecting his or her assistance:

- 3 (6) 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;

To summarize the appellant's eligibility for assistance, he can earn up to \$200 per month before his total payment of \$610 is affected. Amounts in excess of \$200 are subtracted from his assistance payment.

Pursuant to section 33 of the EAR, a recipient must report income by the 5th day of the subsequent month. The ministry then calculates the appropriate payment to be received in the next month.

In his appeal submissions the appellant argues that he did not understand how income received in April affected his June assistance payment. As well, he argued that his employer deposited his paycheque of \$1623.84 on March 29, 2013, not April 1, 2013. The bank recorded it on April 1, 2013 but that was incorrect. He states that he withdrew money on March 29, 2013 and that prior to the paycheque deposit his account was empty.

The ministry explained its process for deducting income. Income received one month must be reported by the 5th day of the next month. It is then deducted from the subsequent month's payment.

The decision notes that the bank record shows an April 1, 2013 deposit date. At the hearing the ministry had no evidence to refute the appellant's claim that he received his paycheque on March 29, 2013 but noted that in any event, his subsequent pay of \$840.66 on April 12, 2013 was sufficient to render him ineligible for assistance in April 2013. Applying his \$200 exemption reduced the amount to \$640.66, which is still in excess of the \$610 he is entitled to receive.

The panel notes the following with respect to the appellant's assertion that he received his pay deposit on March 29, 2013. First, his pay record for that period shows a payday of March 29, 2013. His subsequent pay deposit (April 12, 2013 payday) was recorded by his bank on the same day lending credibility to his report that the funds were deposited on the date recorded on his pay record (March 29, 2013). Second, March 29, 2013 was a statutory holiday (Good Friday), therefore it is probable that transactions made that day were not recorded by the bank until Monday, April 1, 2013. Third, the appellant's statement that his account was empty prior to the pay deposit and his withdrawal on the same day is borne out by his bank statement, which shows a negative balance of \$5.55 on March 29, 2013.

Based on this, the panel finds that the appellant had earned income in March 2013 of at least \$3,235.27 (based on the March 15th and 29th pay deposits). After applying the \$200 earned income

exemption, the ministry was reasonable to find that his earned income in March and 2013 exceeded his assistance payment of \$610, and that he did not qualify for assistance in May 2013.

Despite the re-allocation of \$1623.84 from April's earned income to March, the panel accepts the ministry's contention that even with this reassignment, his April 12, 2013 pay of \$840.66 rendered him ineligible for assistance that month as it exceeded his \$200 exemption and his payment of \$610. The ministry was also reasonable in applying the appellant's income from April in determining him ineligible for a June 2013 assistance payment.

The panel confirms the ministry's decision.