

PART C – Decision under Appeal

The decision under appeal is the ministry's reconsideration decision dated May 7, 2013 which determined that the appellant failed to submit the requested information under Section 10 of the EAA and, therefore, was ineligible for income assistance and would remain ineligible until the information was provided.

PART D – Relevant Legislation

Employment and Assistance Act (EAA), section 10

PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration included the following:

- January 2013 a file is opened on the appellant.
- The appellant prior to March 21, 2013 was receiving income assistance as a couple. However, after the appellant's spouse was determined non-compliant with the employment plan, the appellant asked her to be removed from his file as they were no longer living together. At the time, the ministry asked for confirmation of this and the information provided by the appellant about his living situation was inconsistent.
- April 3, 2013 the ministry asked the appellant to provide current rent receipts, a tenancy agreement indicating whether his accommodation is a 1 bedroom or 2 bedrooms and a phone number for his landlord.
- April 9, 2013 the appellant missed a scheduled appointment which was re-scheduled for April 11, 2013.
- April 11, 2013 the appellant attends an appointment, but did not provide the shelter information previously requested. The appellant is advised by the ministry to provide contact information for his landlord so that his living arrangements could be confirmed.
- April 15, 2013 the appellant does not attend a scheduled follow-up appointment. The appellant is advised in writing that he is ineligible for income assistance for failure to provide information required to assess his eligibility for income assistance.
- A Residential Tenancy Agreement for a tenancy starting March 1, 2013 at a cost of \$700.00 per month. The agreement provides the landlord's name and contact phone number. The agreement does not indicate the type of living arrangement regarding the number of bedrooms. The agreement was provided to the ministry on March 21, 2013.
- A further Residential Tenancy Agreement for a tenancy at a different location starting April 15, 2013. The agreement indicates that the appellant and his former spouse plan to occupy a type of property listed as a "Lower Duplex". The agreement provides no contact information of the landlord.
- A ministry Financial Eligibility Review Checklist which notes the appellant is to provide the ministry with current rent receipts, a tenancy agreement for a 1 or 2 bedroom residence, the phone number of landlord and asset information.
- April 24, 2013 the appellant submits a request for reconsideration. The appellant states he was unable to obtain the requested documentation by the date of the scheduled appointment. The appellant notes the issue was complicated by his lack of mobility due to a temporary medical condition and that the documentation requested was provided. The appellant includes a personal assessment from a bank reporting his net worth, a receipt dated March 31, 2013 from

a landlord made out to him and another person in the amount \$375.00 for a security deposit and another receipt dated April 15, 2013 to him and the same person for rent for the period April 15 to April 30.

In his Notice of Appeal (NOA) dated May 24, 2013 the appellant states that his landlord's contact information was provided. The appellant notes that he was not informed this information had to be on an amended tenancy agreement which he was unable to obtain from the landlord, which he feels is irrelevant because the information was provided either way.

The appellant's NOA was admitted into evidence under Section 22(4) of the Employment and Assistance Act in support of the information and records which were before the ministry at reconsideration.

At the hearing, the ministry stood by the record. They noted that the appellant had not provided contact information for his landlord and no confirmation of his living arrangements could be made. Information provided by the appellant contained inconsistencies regarding where he was living and with whom. The ministry was concerned that the appellant and his friend were living as spouses, even though his friend had previously been removed from his file as his spouse. The appellant had not provided the information required to contact his landlord and about the living arrangements in his new rental accommodation. He was, therefore, in non-compliance.

At the hearing, the appellant said that he believed the ministry's main point was that they wanted a new copy of the lease because the original one did not provide contact information for the landlord, nor did it provide information concerning the number of bedrooms in the apartment.

The appellant acknowledged that he had missed appointments with the ministry, but only because he had not been in a position to provide the requested information at the time. He said that while the new rental accommodation is in fact a one-bedroom suite, it is set up for two occupants. He said that he had not been trying to withhold information, and said that his friend would have been willing to sign an affidavit concerning their living arrangements as no longer a couple, but as independent roommates if necessary. The appellant said that he showed someone at the front desk of the ministry the phone book, in which his landlord was listed, then wrote the phone number on a piece of paper and handed it to the ministry employee. He acknowledged that this information was not included in the tribunal record. The ministry also noted there was no documentation of this in its records.

The appellant said that the entire issue had been raised as a result of his request for a moving supplement, and noted that his move had been complicated by the fact that he had a broken leg. He had been unable to find acceptable accommodation in his price range, and he and his former spouse agreed that while they had been unable to live successfully as a couple, they were nonetheless friends and could move in together to share expenses, specifically the cost of the apartment.

In response to a question from the ministry, the appellant told the ministry the name of one of the ministry personnel to whom he had provided the landlord's phone number. He said that the ministry official had been adamant that a new tenancy agreement was required. He further stated that he had been willing to provide photos of the apartment as well.

He reiterated that he believed that he had provided everything asked by the ministry, apart from providing a new tenancy agreement. He believed however that he had provided all the actual information required by the ministry. Because his landlord was elderly and not around most of the time it was difficult to arrange and get the needed information regarding her contact information and confirmation of his living arrangements. The appellant believes it is not his fault that the landlord did not fill in her contact information on the tenancy agreement.

PART F – Reasons for Panel Decision

The issue on this appeal is the reasonableness of the ministry's reconsideration decision dated May 7, 2013 which determined that the appellant failed to submit the requested information under Section 10 of the EAA and, therefore, was ineligible for income assistance and would remain ineligible until the information was provided.

The EAA provides the following:

Information and verification

10 (1) For the purposes of

- (a) determining whether a person wanting to apply for income assistance or hardship assistance is eligible to apply for it,
- (b) determining or auditing eligibility for income assistance, hardship assistance or a supplement,
- (c) assessing employability and skills for the purposes of an employment plan, or
- (d) assessing compliance with the conditions of an employment plan,

the minister may do one or more of the following:

- (e) direct a person referred to in paragraph (a), an applicant or a recipient to supply the minister with information within the time and in the manner specified by the minister;
- (f) seek verification of any information supplied to the minister by a person referred to in paragraph (a), an applicant or a recipient;
- (g) direct a person referred to in paragraph (a), an applicant or a recipient to supply verification of any information he or she supplied to the minister.

(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.

(3) Subsection (1) (e) to (g) applies with respect to a dependent youth for a purpose referred to in subsection (1) (c) or (d).

(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.

(5) If a dependent youth fails to comply with a direction under this section, the minister may reduce the amount of income assistance or hardship assistance provided to or for the family unit by the prescribed amount for the

prescribed period.

The ministry's position is that the appellant did not provide the information and documentation that was needed to determine his continued eligibility for income assistance. Specifically, the contact information for his landlord and confirmation of his living arrangements was lacking. It argues that it made every attempt to accommodate the appellant and that he had sufficient time to provide the information and documentation.

The appellant maintains that he did everything possible to provide the required information to the ministry, and believes that, even in the absence of a new tenancy agreement, he has provided sufficient information to the ministry to satisfy their concerns. He argues that due to the frequent absence of his landlord it was difficult to provide the required information in a timely fashion.

With respect to the legislative criteria in Section 10 the EAA the ministry is authorized, at any time, to direct recipients to provide eligibility information in a timely fashion and in a verifiable form. The panel finds the appellant did not provide current contact information for his landlord and the confirmation of his living arrangements as requested by the ministry. The panel finds further that the appellant was given ample opportunity to comply with the ministry's request. The ministry on April 3, 2013 asked the appellant for a set of information including the specific information noted above to assess his eligibility for income assistance. Following this the appellant was provided three opportunities on April 9, 2013, April 11, 2013 and April 15, 2013 to comply with the request. The panel finds that the explanation by the appellant that his landlord is elderly and frequently away as not sufficient evidence to explain his failure to comply. It also finds that it is normal practice for a tenant of any rental accommodation to have a contact number for a landlord and, in this instance, without it could have made a reasonable effort to have provided it to the ministry. There is no documentation provided to verify the absence of the landlord over the timeframe and to support the appellant's incapacity of non-compliance.

With respect to the legislative criteria and authority of Section 10 of the EAA the panel finds that the ministry reasonably determined that the appellant failed to provide information requested by it in order to assess his eligibility for income assistance. The ministry undertook repeated attempts to notify him of its requirements and to accommodate his efforts over three occasions. The panel further finds that the ministry reasonably determined that the appellant was ineligible for continued income assistance with respect to the legislative criteria and authority of Section 10 (4) of the EAA and confirms the ministry's decision as a reasonable application of that legislation.