

PART C – Decision under Appeal

The decision under appeal is the ministry's reconsideration decision dated June 7, 2013 which held that the appellant was not eligible for income assistance because he failed to comply with a direction to provide information as required under section 10 of the Employment and Assistance Act, and pursuant to Section 32 of the Employment and Assistance Regulation he remains ineligible until he complies. The ministry determined that the appellant did not provide verification of his current rent receipt and utility bills, proof of all sources of income, past 60 days transaction records for all bank or credit union accounts, current documents of all investments, vehicle registration and insurance of all vehicles he owns, proof of all assets received since his application for assistance such as an inheritance, lottery winnings, cash gifts, lump sum payments, insurance or lawsuit settlements, trust documents, documents for any properties he owns or jointly owns and financial records if he is self-employed.

PART D – Relevant Legislation

Employment and Assistance Act(EAA) section 10

Employment and Assistance Regulation(EAR) section 32

PART E – Summary of Facts

The evidence before the minister at reconsideration was as follows:

1. On April 9, 2013 the ministry sent the appellant a letter advising him that his file had been selected for review and requesting that he submit his current rent receipt and utility bills, proof of all sources of income, past 60 days transaction records for all bank or credit union accounts, current documents of all investments, vehicle registration and insurance of all vehicles he owns, proof of all assets received since his application for assistance such as an inheritance, lottery winnings, cash gifts, lump sum payments, insurance or lawsuit settlements, trust documents, documents for any properties he owns or jointly owns and financial records if he is self-employed. The letter also stated that once the documents have been submitted, a letter would be sent advising him of his interview time and whether the interview will be conducted in person or by phone.
2. On May 3, 2013 the ministry sent the appellant another letter advising him that he had failed to submit the requested documents and that an appointment had been scheduled for May 10, 2013 between 9:00 am and 2:00 pm. The appellant was asked to submit before May 8, 2013 the information requested on April 9, 2013. The letter also noted that failure to contact the ministry would result in the appellant's assistance being discontinued as per section 10 of the EAA.
3. On May 14, 2013 the ministry sent the appellant another letter informing him that he had not submitted the requested documents and he was ineligible for assistance because the ministry was unable to review his continued eligibility.
4. On May 24, 2013 the ministry verbally informed the appellant that he was not eligible for assistance for failing to provide the documents that had been requested
5. In Section 3 of the appellant's Request for Reconsideration, dated May 28, he stated that he needed income to live and unfortunate events led to him not being notified of his file review. He said he had been incarcerated and did not receive mail notifying him until he was verbally notified on May 24 and he would be interested in resolving the issue. He said there had been a change in his contact information, e.g. phone number.
6. In his Notice of Appeal of the ministry's reconsideration decision, dated June 19, 2013, the reasons the appellant disagrees with the decision are he had not known prior to May 24 that he needed to provide the documents for the ministry, he is currently in great need for medical reasons and is trying to get the documents to the ministry so his file can still be considered.

In his Written Submission dated July 30, 2013, the appellant submitted the following:

- A Statement explaining his situation
- A copy of his Employment Plan, dated February 21, 2013
- Copy March 2013 employment assistance pay stub
- A copy of his Medical Report – Employability, dated June 25, 2013
- Personal/Business Deposit Account Statement Update, March 1- May 23, 2013.

The panel determined the additional documentary evidence, except the Medical Report –

Employability, dated June 25, 2013, was admissible under section 22(4) as it was in support of the records before the minister at reconsideration. A copy of his Medical Report–Employability was not admissible as it was not an issue before the minister at reconsideration.

In his Written Submission dated July 30, 2013, the appellant submitted the following:

- The appellant stated that the problem occurred through lack of communication. When he first became aware that he was not eligible for income assistance on May 24, 2013, he went to the office and met with a worker who explained to him that the ministry sent him 3 letters. He said he did not receive two of those letters" because of other people had been taking", and the other letter of April 9th, his mother sent to him on June 25 with the tribunal package saying she had picked it up earlier and had forgotten about it.
- The appellant also stated that the ministry informed him that they phoned him but he did not have any call on his phone bill with their number or message and he knows that they had his new number because he had put it on his March 2013 stub. He said he was not given "proper notice." He asked for reconsideration and the worker told him to return on May 29, 2013 when the package would be ready.
- The appellant returned to the office on May 29, 2013, picked up the package and he felt rushed filling out his Employment and Assistance Request for Reconsideration package because his supplement check was been withheld.
- The appellant submitted his bank records of the last 90 days, March 1-May 23, 2013 to the ministry on May 29, 2013.
- The appellant said he was focused on getting his medical record done, was in a lot of pain, was staying at his girlfriend's place as she was taking care of him, and he might not have picked up his mail including the letters from the ministry
- The appellant said that when he picked up his check in April, the ministry did not say anything to him about his file review.
- In the Employment Plan signed by the appellant on February 21, 2013, under the heading d) Details, it states that the appellant "Connect with community resources in your area regarding your medical condition. Find out what services are available that may be helpful to you. Register and attend the program or services you have selected. Contact the Ministry of Social Development on a monthly basis to keep updated on your personal progress during the next 3 months. Attend all review appointments as required by the Ministry." Under the heading e) Date of Referral (YYYYMMDD), there is no date specified, and under the heading f) Client Reporting Requirements: 1.Frequency: Daily, Weekly, Monthly, and Other, Other is ticked off.

In its Written Submission, dated August 7, 2013, the ministry said that the reconsideration summary provided in the sealed package was its submission.

The panel makes the following findings of fact from the evidence presented:

- The appellant is a single employable recipient with no dependants
- The appellant submitted his bank records, for 90 days, March 1- May 23, 2013
- The ministry sent the appellant two letters, dated April 9, 2013 and May 3, 2013 asking him to submit current rent receipt and utility bills, proof of all sources of income, past 60 days transaction records for all bank or credit union accounts, current documents of all investments, vehicle registration and insurance of all vehicles he owns, proof of all assets received since his application for assistance such as an inheritance, lottery winnings, cash gifts, lump sum

payments, insurance or lawsuit settlements, trust documents, documents for any properties he owns or jointly owns and financial records if he is self-employed.

- Except for his 90 days bank records, March 1 – May 23, 2013 the appellant did not submit the other information requested by the ministry.

PART F – Reasons for Panel Decision

The issue is whether the ministry's decision to deny the appellant income assistance because he failed to comply with a direction to provide information: verification of his current rent receipt and utility bills, proof of all sources of income, past 60 days transaction records for all bank or credit union accounts, current documents of all investments, vehicle registration and insurance of all vehicles he owns, proof of all assets received since his application for assistance such as an inheritance, lottery winnings, cash gifts, lump sum payments, insurance or lawsuit settlements, trust documents, documents for any properties he owns or jointly owns and financial records if he is self-employed, is reasonably supported by the evidence or a reasonable application of the applicable legislation in the circumstances of the appellant.

EAA:

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.

Section 10 of the EAA states that the minister may direct a recipient to supply verification of any information he or she supplied or was received by the minister if that information relates to the eligibility of the family unit for income assistance and if the recipient fails to comply with the direction, the minister may declare the family unit ineligible for income assistance for the prescribed period.

Section 32(1) of the EAR states the family unit is ineligible for assistance until the recipient complies with the direction to supply information.

The ministry stated that two letters dated April 9, 2013, and May 3, 2013 were sent to the appellant directing him to provide information of his current rent receipt and utility bills, proof of all sources of income, past 60 days transaction records for all bank or credit union accounts, current documents of all investments, vehicle registration and insurance of all vehicles he owns, proof of all assets received since his application for assistance such as an inheritance, lottery winnings, cash gifts, lump sum payments, insurance or lawsuit settlements, trust documents, documents for any properties he owns or jointly owns and financial records if he is self-employed. The ministry stated that the appellant did not comply with the direction to provide information, and it was not able to verify the information for continued eligibility assistance to the appellant. The ministry also stated that the appellant was directed to attend an interview once all the documents have been submitted and the appellant has not complied with this direction to date.

In the appellant's Written Submission dated July 30, 2013, the appellant said that he did not receive the second and third letters, and the first letter was picked up by his mother who did not give it to him until June 25, 2013 because she had forgotten about it. The appellant also stated that the ministry informed him that they phoned him but he did not have any record of such call on his phone bill; neither was there any record of a telephone message from the ministry. He said the ministry knew his new number because he had put it on his March 2013 stub. The appellant said that he did not provide the information requested by the ministry because he was focused on getting his medical report done, was in a lot of pain, was staying at his girlfriend's place since she was taking care of him, and he might not have picked up his mail. The appellant said that when he picked up his check in April 2013, the ministry did not say anything to him about his file review.

In the Employment Plan the appellant signed on February 21, 2013 under d) the appellant was required to contact the ministry on a monthly basis to keep updated on his personal progress during the next three months, and to attend all review appointments as required by the ministry.

The panel finds that if the appellant had checked with the ministry on a monthly basis, he would have known about the information requested for his file review. As to issues raised by the appellant on e)

and f) of his Employment Plan, this has nothing to do with the documents required by the ministry

The panel finds that the ministry directed the appellant to provide specific information in two letters to him and it was the appellant's obligation to provide the outstanding items of information: his current rent receipt and utility bills, proof of all sources of income, current documents of all investments, vehicle registration and insurance of all vehicles he owns, proof of all assets received since his application for assistance such as an inheritance, lottery winnings, cash gifts, lump sum payments, insurance or lawsuit settlements, trust documents, documents for any properties he owns or jointly owns and financial records if he is self-employed. It was his responsibility to check his mail and, if he moved his residence for an extended period of time, to update this information with the ministry or have his mail forwarded. The panel found that the appellant submitted the past 60 days transaction records for all bank or credit union accounts but the appellant did not submit the remaining items, from the time he was verbally informed of the ministry's decision to deny further eligible income assistance on May 24, 2013 to July 30, 2013 when he made his written submission even though he had 68 days to submit these outstanding items of information but did not do so. Therefore, the panel finds the ministry reasonably determined the appellant ineligible for income assistance under s.10 of the EAA for failing to comply with the direction to provide information and that pursuant to s.32 of the EAR the appellant remains ineligible until he complies with the direction to supply the information.

The panel finds that the ministry's decision was a reasonable application of the applicable enactment in the circumstances of the appellant and confirms the decision.