

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Social Innovation's (the ministry's) reconsideration decision dated July 19, 2013 which held that the appellant was not eligible for income assistance because he failed to provide the requested information and to complete his eligibility interview as required under section 10 of the Employment and Assistance Act (EAA) and section 34 of the Employment and Assistance Regulation (EAR).

PART D – RELEVANT LEGISLATION

Employment and Assistance Act (EAA) section 10
Employment and Assistance Regulation (EAR) and section 34

PART E – SUMMARY OF FACTS**Evidence**

The ministry in the Reconsideration Decision background section outlined the following:

- that the appellant is an employable recipient with no dependants;
- that the ministry sent the appellant a letter on April 10, 2013 advising that his file was selected for review, that the appellant was requested to contact the ministry on May 1, 2013 by telephone to complete an eligibility interview and that the appellant was requested to submit the following information: his rent receipt, utility bills if required to pay them, a tenancy agreement, proof of all sources of income, 2012 income tax notice of assessment, the past 60 days of transaction records from all bank or credit union accounts, proof of all accounts closed within the last 90 days, investment documents, vehicle registration, proof of all assets, trust documents and documents on any properties owned or jointly owned by the appellant;
- that on May 1, 2013 the ministry sent the appellant a letter advising him that he failed to contact the Ministry for his appointment on May 1, 2013, that he failed to submit the requested documents, that another appointment had been scheduled for June 3, 2013 by telephone to complete an eligibility interview, that the appellant was requested to submit the documents identified in the April 10, 2013 letter, and that if the appellant did not contact the ministry on June 3, 2013 that his assistance would be discontinued as per section 10 of the EAA and section 34 of the EAR;
- that on June 3, 2013 the ministry sent the appellant a letter advising him that he failed to attend his eligibility interview and that he was no longer eligible for assistance;
- that on June 26, 2013 the appellant advised the ministry that he had not received the ministry letters from his landlord; and
- that the appellant submitted his rent receipt, a bank statement for April 24, 2013 to May 23, 2013 and his tenancy agreement.

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

- a Residential Tenancy Agreement between appellant and his landlord with rent of \$500 commencing February 1, 2013 and signed July 8, 2013;
- a letter from the landlord of the appellant stating he did not give the appellant his mail for a couple of months which was without date and signature;
- a rent receipt in the amount of \$500 per month signed by the land lord with an amended date of July 8, 2013 from June 4, 2013 and the date of June noted in the "for the month of" section as well as April and May added;
- a July 8, 2013 letter from the advocate of the appellant which outlines the reason why the appellant missed his eligibility review appointments was due to not receiving his mail because the land lord of the appellant did not give to the appellant his mail for a couple of months and that mail box is only accessible by a key held by the landlord; and
- the appellant in his Request for Reconsideration dated July 5, 2013 under section 3 outlines that he submitted a letter and the documents needed for an eligibility review.

Additional Evidence

In the Notice of Appeal dated August 1, 2013 the appellant states that he disagrees with the decision because it was not his fault that he could not get his mail, that he has bill collectors calling so he cannot answer his phone, that he did send in a 2 month bank record and that his tax information is in a neighboring suburb far from his reach.

At the hearing, the appellant provided additional evidence that was consistent with the other evidence and as follows:

- o that the appellant did request two months of bank records from his bank and that he could not provide the other requested information as it was at another location;
- o the appellant has received and does receive the required ministry monthly assistance reporting form regularly in the mail;
- o the appellant admits that some things were his fault as his landlord (who is also his roommate) was not around a lot due to a car accident and a new baby and that the appellant was also bed ridden for half of a month; and
- o the appellant stated that the reasons for the difference in the hand writing and the spelling of the second name of the land lord is that the appellant prepared a lot of the documents himself and then asked his land lord to sign them afterwards and that he did this because the land lord was not able to do this himself.

The panel determined that the additional oral evidence from the appellant was admissible under section 22 (4) of the EAA as it is in support of the information that was before the ministry at the time of its reconsideration decision.

At the hearing, the ministry provided the additional evidence that there is an inconsistency in the signatures between the rent receipt signed by the land lord and the Intention to Rent form that was not included in the Appeal Package.

The panel determined that the additional oral evidence from the ministry was not admissible under section 22 (4) of the EAA because this information was brought forward in the appeal hearing and the Reconsideration Decision did not mention this inconsistency. Accordingly, the panel concludes that this information was not before the ministry at the time of reconsideration, and also that it is not in support of information that was before the ministry.

PART F – REASONS FOR PANEL DECISION**Issue to be Decided**

The issue under appeal is whether the ministry's reconsideration decision, which denied the appellant income assistance because he failed to provide the requested information and to complete his eligibility interview as required under section 10 of the EAA and section 34 of the EAR is reasonably supported by the evidence or whether it is a reasonable application of the applicable enactment in the circumstances of the appellant.

Legislation

The applicable EAA legislation is as follows:

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 applicable EAR legislation is as follows:

Consequences of failing to provide information or verification when directed

- 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.

Requirement for eligibility audit

- 34** (1) For the purposes of auditing eligibility for assistance or ensuring a recipient's continuing compliance with the Act and the regulations, the minister may do either or both of the following:
- (a) require the recipient to attend in person on the date, and at the ministry office, specified by the minister;
 - (b) require the recipient to complete a form specified by the minister for use under this section and deliver the form to a ministry office specified by the minister.
- (2) A recipient who is required under subsection (1) (b) to complete a form but who is not required to attend in person at a ministry office must deliver that form to the specified ministry office within 20 business days after being notified of the requirement to complete the form.
- (3) Delivery of the form under subsection (2) may be made by
- (a) leaving it with an employee in the ministry office, or
 - (b) mailing it to that office.
- (4) A family unit ceases to be eligible for assistance if
- (a) a recipient in the family unit fails to attend in person at the ministry office when required to do so by the minister under subsection (1) (a), or
 - (b) a recipient in the family unit fails to complete and deliver the form when required to do so by the minister under subsection (1) (b).
- (5) Repealed. [B.C. Reg. 48/2010, Sch. 1, s. 1 (b).]

Section 10 (1) of the EAA provides that for the purposes of determining or auditing eligibility for income assistance the minister may direct a recipient of income assistance to do one or more of the following: to supply the minister with information within the time and in the manner specified by the minister, seek verification of any information supplied to the minister, or direct the recipient of income assistance to supply verification of any information they supplied. Section 10 (4) provides that if the recipient fails to comply with this request that the minister may declare the family unit ineligible for income assistance for the prescribed period.

Section 32 (1) of the EAR provides that for the purposes of section 10 (4) as noted above, the period for which the minister may declare the family unit ineligible for assistance lasts until the recipient complies with the direction.

Section 34 (1) the EAR provides that for the purposes of auditing eligibility for income assistance the minister may do either or both of the following: (a) require the recipient to attend in person on the date, and at the ministry office, specified by the minister; (b) require the recipient to complete a form specified by the minister for use under this section and deliver the form to a ministry office specified by the minister.

Section 34 (4) of the EAR outlines that for purposes of auditing eligibility for income assistance a family unit ceases to be eligible for assistance if (a) a recipient in the family unit fails to attend in person at the ministry office when required to do so by the minister under subsection (1) (a), or (b) a recipient in the family unit fails to complete and deliver the form when required to do so by the minister under subsection (1) (b).

Ministry's Position

The ministry argues that appellant has not provided all the documentation requested by the ministry such as the bank transactions for the last 60 days and his 2012 income tax notice of assessment. Further that the appellant did not complete his eligibility interview.

Appellant's Position

The appellant argues that the reason why the appellant missed his eligibility review appointments was due to not receiving his mail. The appellant did not receive his mail from the land lord for a couple of months and the mail box of the appellant is only accessible by a key held by the landlord.

Before the appeal hearing, the appellant argued that it was not his fault that he could not get his mail, he has bill collectors calling so he cannot answer his phone, he did send in a 2 month bank record and that his tax information is far from his reach.

At the hearing, the appellant stated that he did request two months of bank records from his bank and he confirmed that he could not provide the other requested information as it was at another location. The appellant also stated that he has received the required monthly reporting form from the ministry in the mail before, that he admits that some things were his fault because his roommate (also the landlord of the appellant) was not around a lot due to a car accident and a new baby, his family and that the appellant was also bed ridden for half of a month. The appellant further states that the reasons for the difference in the hand writing in the information is that the appellant prepared a lot of the documents himself and then asked his land lord to sign them afterwards because the land lord was not as able to do this himself.

Panel Decision

The panel finds that while the appellant provided some of the requested information as required under section 10 (1) of the EAA, the appellant did not provide the ministry with all of the required information such as the bank transaction records for the last 60 days and the 2012 income tax notice of assessment. The appellant offered no convincing explanation for why he could not obtain his income tax information from the neighboring suburb where he stated it was located, other than to say it was "far from [his] reach."

The appellant's rationale for failing to attend the scheduled eligibility interviews is similarly not convincing. The appellant referred to his landlord as being his roommate, indicating that they share a residence. The appellant admitted that "some of the things were his fault" and that during the relevant 2 month period the appellant managed to obtain and submit the ministry forms necessary for him to continue receiving income assistance. In the panel's view the appellant's failure to obtain his mail during the 2 month period does not mitigate his non-participation in the scheduled eligibility interview.

Based on the evidence, the panel finds that the ministry reasonably concluded that the appellant failed to provide requested information for the purposes of section 10 of the EAA, and that he failed to attend the eligibility interview without providing sufficient evidence of mitigating circumstances.

Accordingly, the panel finds that the ministry's determination that the appellant was ineligible for income assistance was a reasonable application of the legislation in the circumstances of the appellant, and confirms the ministry's decision.