

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated October 17, 2013 that held that the appellant was not eligible for Disability Assistance (DA) at this time due to failure to apply on behalf of her entire family unit pursuant to sections 1.1 of the Employment and Assistance for Persons With Disabilities Act and section 5 of the Employment and Assistance for Persons With Disabilities Regulation.

The appellant had been a single recipient of DA since October 1992.

PART D – Relevant Legislation

Employment and Assistance for Persons With Disabilities Act (EAPWDA), section 1.1.
Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), section 5.



PART E – Summary of Facts

The evidence before the ministry at reconsideration was comprised of:

A Rental Agreement to commence July 1, 2013 for \$725 per month was signed by the appellant and Person B for the appellant's current address on June 19, 2013

A copy of the agreement to abide by the rules and regulations of the rental accommodation, undated and signed by both the appellant and Person B.

A copy of the appellant's Shelter Information for the ministry dated August 20, 2013 indicating her current address, her portion of the monthly rental amount of \$375 to include utilities and room and board and noting that Person B is the landlord. Person B does provide a signature as landlord and notes the same address as the appellant.

A copy of a receipt from Person B to the appellant for rent and room and board of \$375 dated August 20, 2013.

A copy of a receipt from Person B to the appellant for rent of \$375 dated September 1, 2013.

A copy of an electricity statement for Person B for a billing period of July 9 – September 6, 2013 at the appellant's current address.

A copy of a telecommunication invoice for Person B for September 2013 at the appellant's current address.

Copies of the appellant's Bank Account Activity statements for the months of May, June, July and August, 2013 indicating only one withdrawal each month as follows: May \$936, June \$935, July \$936 and August \$895.

Copies of Person B's Bank Account Activity statements beginning May 24 and for the months of June, July, August and September, 2013. Monthly rent payments of \$725 are shown for June, July, August and September. Cellular phone, cable and utility bills are indicated as regularly paid from this account. No deposits indicated for those months.

A copy of the appellant's Income Tax and Benefit Return for 2012 dated February 28, 2013 noting the appellant's previous address.

A copy of Person B's Income Tax and Benefit Return for 2012 noting the appellant's current address.

A copy of Person B's Income Tax and Benefit Return for 2011 noting the appellant's current address.

The appellant's Request for Reconsideration dated October 7, 2013 included these reasons for reconsideration; to pay for rent, food and bills (hydro and cable).

The appellant's Notice of Appeal dated October 24, 2013 indicates that she needs medication, rent and food money as well as special medication for her bi-polar disease.

Findings of Fact

The appellant has been a recipient of DA since October 1992 as a single person.

Both the appellant and Person B have lived together at the same address from July 1, 2013 - October 17, 2013.



PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry reasonably determined that the appellant was not eligible for Disability Assistance due to failure to apply on behalf of her entire family unit pursuant to sections 1.1 of the Employment and Assistance for Persons With Disabilities Act and section 5 of the Employment and Assistance for Persons With Disabilities Regulation.

Relevant Legislation

Employment and Assistance for Persons with Disabilities Act

Meaning of “spouse”

1.1 (1) Two persons, including persons of the same gender, are spouses of each other for the purposes of this Act if

- (a) they are married to each other, or
- (b) they acknowledge to the minister that they are residing together in a marriage-like relationship.

(2) Two persons who reside together, including persons of the same gender, are spouses of each other for the purposes of this Act if

- (a) they have resided together for at least
 - (i) the previous 3 consecutive months, or
 - (ii) 9 of the previous 12 months, and
- (b) the minister is satisfied that the relationship demonstrates
 - (i) financial dependence or interdependence, and
 - (ii) social and familial interdependence, consistent with a marriage-like relationship.

Employment and Assistance for Persons with Disabilities Regulation

Applicant requirements

5 For a family unit to be eligible for disability assistance or a supplement, an adult in the family unit must apply for the disability assistance or supplement on behalf of the family unit unless

- (a) the family unit does not include an adult, or
- (b) the spouse of an adult applicant has not reached 19 years of age, in which case that spouse must apply with the adult applicant.

It is the appellant's position that she needs money for; medication, rent, food, bills and her bi-polar disease special medication.

It is the ministry's position that the appellant and Person B have resided together for at least the previous 3 consecutive months and that their relationship demonstrates financial dependence consistent with a marriage-like relationship. The ministry argues that Person B's bank statements indicate he pays the rent, utility bills and that the appellant does not reimburse him. The minister is also satisfied that this relationship demonstrates social and familial interdependence consistent with a marriage-like relationship as the appellant has presented with Person B as a couple to the ministry and the building landlord and the appellant's sister have both indicated to the ministry that the appellant and Person B are a couple. The minister finds that Person B meets the definition of spouse as set out in the Act and must be considered a dependant in the appellant's family unit.

The panel notes that the issue to be decided is whether the ministry reasonably determined that the appellant was ineligible for disability assistance as a single recipient. The panel finds that the appellant has lived with Person B since July 1, 2013 and has provided receipts for rent from Person B for \$375 for the months of August and September, 2013. However; the panel finds that there is no evidence to substantiate this transaction in either of the parties' bank account records. The appellant reports that Person B does not work and that she supports him; the evidence also indicates that the appellant and Person B have been confirmed by their building landlord and the appellant's sister that they are a couple, which is not disputed by the appellant. Therefore, the panel concludes that the ministry reasonably determined that the appellant and Person B have lived together for at least the previous 3 consecutive months and that the relationship demonstrates financial dependence or interdependence and social and familial interdependence consistent with a marriage-like relationship pursuant to section 1.1(2) of the EAPWDA.

The legislation defines two persons, including persons of the same gender, are "spouses" of each other for the purposes of this Act if they acknowledge to the minister that they are residing together in a marriage-like relationship. The panel notes that while the appellant has not admitted to the ministry that she is in a dependency relationship with Person B; she has indicated that she would add him to her file as her spouse. The panel finds that the appellant has provided documents requested by the ministry that confirm that the appellant and Person B are both listed as tenants in their rental agreement, share Person B's cell phone # and that she has access to his bank statements, taxes and utility bills which are consistent with a marriage-like relationship. The panel therefore finds that the ministry reasonably determined that the appellant is in a relationship with Person B that meets the definition of "spouse" pursuant to section 1.1(1)(b) of the EAPWDA.

In view of the above, the panel finds that the ministry's reconsideration decision that the appellant was no longer eligible for disability assistance as a single recipient was reasonably supported by the evidence and the panel therefore confirms the reconsideration decision.