

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) October 11, 2013 reconsideration decision denying the appellant income assistance because he has failed to provide the information requested by the ministry under section 10 of the Employment and Assistance Act (EAA). The appellant failed to provide verification of his SIN and bank statements from December 2012 to March 2013.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) section 10.
Employment and Assistance Regulation (EAR) section 32.

PART E – Summary of Facts

The information before the ministry at reconsideration included the following:

Copies of the appellant's Care Card, BCID and Birth Certificate.

An undated shelter document (under "date" the appellant's birth date is entered, and the space for "date signed" is left blank),

- stating the appellant's mailing address.

Appellant's Consent for Release of Information to his advocate from May 14, 2013 to May 14, 2014 "to MSD / Labor Standards / RTB".

Information from ministry records:

- A letter to the appellant was returned to the ministry on July 4, 2013 with a note on the envelop stating "no such mailing address".
- On July 5, 2013 the appellant's advocate told the ministry that the shelter document had the appellant's correct mailing address. The appellant's file was updated accordingly and the first request letter was mailed out requesting the information by July 19, 2013.
- On July 19, 2013 "no documents submitted"; the ministry received a call from the appellant's advocate regarding the investigation; a 2nd Request for Info letter was sent requesting the information by August 2, 2013.
- "Signal for Benefits moved from Aug/13 to Sep/13. Decision based on allotted time for correspondence to be received"
- July 5, 2013: advocate's Release of Information on file.
- On July 23, 2013 the appellant left a message which the ministry attempted to return. As the phone rang busy the ministry called the appellant's advocate and discussed the submission of the requested documents. The advocate "says she does not have time to be spending so much time gathering what she sees as being the same documents again..."
- On August 27, 2013 a fax was received from the advocate that included some documents. Appellant has a bank account that is set up on his assistance file for direct deposit. September check is being held for outstanding docs that were due August 2.
- On September 3, 2013 the appellant contacted the ministry stating that he was starving and the landlord wanted rent money. The ministry explained that it was unable to release the check until the appellant submits requested documents and went through the list of documents still to be submitted.
- On September 5, 2013 a section 10 denial letter sent in mail .
- September 10, 2013 the ministry noted that appellant has submitted his birth certificate, care card and BCID, but none of the other requested information.
- September 13: request for Reconsideration received, request for extension to submit additional information was granted and due date set for October 11, 2013.
- On October 11, 2013 the ministry contacted the advocate and confirmed that the appellant had no additional information to submit.

A letter dated June 25, 2013 from the ministry informing the appellant of the review of his file and listing the requested information as follows:

- Social Insurance Card or verification of the appellant's Social Insurance number from Service

Canada; Picture ID and Care Card.

- A current rental agreement, rent receipt and utility bills.
- Documentation detailing Dispute Resolution with Residential Tenancy Branch.
- Pay statements or pay stubs for all income for the period of May 1, 2010 to May 31, 2013.
- Records of employment from all employers during the period of May 1, 2010 to May 31, 2013.
- Documentation confirming the results of the appellant's claim with Employment Standards.
- Statements for all bank accounts for the period of December 1, 2012 to May 31, 2013. This request includes statements from any cheque cashing institution.
- Bank profiles (forms enclosed) to be completed by all financial institutions where appellant has account.
- Income Tax Notice of Assessment for 2010, 2011 and 2012.
- T4s for 2010, 2011 and 2012.

A letter dated July 5, 2013 from the ministry informing the appellant of the review of his file, listing the requested information [same as in the June 25 letter] and stating that

- the requested information has to be submitted by July 19, 2013;
- a previous letter dated June 25 was returned to the ministry;
- the July 5 letter was sent to the updated address.

A letter dated July 19, 2013 from the ministry stating

- that the requested information has not been received;
- that the appellant is requested to submit it by August 2, 2013;
- and listing the requested information [same as in the June 25 letter].

A letter dated September 5, 2013 from the ministry informing the appellant

- the ministry has not received the requested information
- which information is still outstanding [the same information as listed in the June 25 letter, including the statement that "you have direct deposit set up for your assistance payments"];
- that he is no longer eligible for assistance and his file will be closed October 8.

In his Request for Reconsideration dated September 13, 2013 the appellant requested an extension of 20 days to supply additional evidence. Advocate and appellant submitted the following statements :

- Care card, picture ID and birth certificate have been submitted on no less than 2 occasions.
- Mail, personal belongings, damage deposit and rent receipts are held by previous landlord.
- They suspect that the SIN card is in possession of previous landlord.
- The minister contacted advocate, file will not be addressed for up to 6 weeks.
- Bank information has been submitted on more than one occasion.
- Appellant and advocate have not received any requests by mail or any other avenue.
- The appellant has no phone and is homeless.
- The appellant has called 1-866 four times, was told "they would not talk with him" , he left a message each time, no calls were returned to the advocate nor the appellant's mother;
- The appellant was on vacation the week of July 18.
- The appellant called and left messages at the ministry not less than 5 times.

In his Notice of Appeal dated November 3, 2013 the appellant states that

- he did not receive any written material from MSDSI;

- he made all reasonable attempts to produce documents from Feds, still coming in;
- "advocate address client homeless" [as the appellant is homeless he wants his advocate's address to be used for communications].

At the hearing the appellant stated that

- he did not get his mail because the landlord wrote the wrong address on the shelter information; there were problems with the landlord;
- he is homeless since September;
- his current address is...[at this time the appellant names the same PO Box address that is given as "mailing address" on the shelter document and to which the Ministry letters of July 5 and 19 and September 5 are addressed];
- this PO box is shared with his landlord;
- he got the 3 letters early October/late September when the landlord handed them over;
- he did not get the appeal package, the advocate did;
- Service Canada could not help him but gave him a card with a toll-free number to call;
- he phoned Service Canada and has been promised but not received his SIN card;
- he sent in an application, but they cannot find the information - it is a mail issue;
- he is computer illiterate and cannot do his SIN application on the computer;
- he has provided all bank information that was requested, and bank statements have been provided ages ago;
- he never had a bank account, it was only opened when he had the new landlord.

The advocate stated that

- the appellant's landlord kept all his mail;
- neither she nor the appellant got written notice;
- the advocate got the appeal package on November 27;
- that phone and fax matters were immediately taken care of;
- the advocate never received a faxed copy;
- there was only one phone call with a person at the ministry;
- the appellant has been to service Canada 3 times regarding his SIN but they refused to give him the documents;
- the appellant's mailing address is the same as the advocate's address which is noted as mailing address on the Notice of Appeal.

The ministry relied on its reconsideration decision and added the following information:

- As of September 2013 the appellant's income assistance has been discontinued.
- Written letters were only part of the ministry's communication with the appellant and advocate.
- In a conversation on July 23 the advocate said she had no time to provide documents.
- Verification of a SIN can be gotten in 10 days on average.
- The ministry received the appeal package on November 27, on the same day as advocate.

Pursuant to section 22(4) of the Employment and Assistance Act the panel admits the appellant's/advocate's statements at the hearing as well as the ministry's additional information as being in support of the information that was before the ministry at reconsideration; these statements provide additional information about the appellant's attempts to provide verification of his SIN and bank statements and about the communication between the appellant/advocate and the ministry.

PART F – Reasons for Panel Decision

The issue under appeal is whether the reconsideration decision denying the appellant income assistance under section 10 of the EAA because he has failed to provide verification of his SIN and bank statements from December 2012 to March 2013 is a reasonable application of the legislation or reasonably supported by the evidence.

Section 10 of the EAA and section 32 of the EAR apply to this appeal:

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) ...
- (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.

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.

Position of the parties

The appellant argues that he cannot be reasonably expected to provide information to the ministry when neither he nor his advocate are aware of the ministry's requests. Neither he nor his advocate received any requests by mail or any other avenue due to the fact that the appellant has no phone and is homeless. The appellant's several attempts to contact the ministry have been unsuccessful.

The appellant argues further that it is unreasonable of the ministry to make multiple requests for documents. He has made all reasonable efforts to comply with the ministry's request and is still expecting documents to come in, yet the ministry has unreasonably cut him off income assistance. He has made every reasonable attempt to provide the ministry with verification of his SIN and the required bank statements from December 2012 to March 2013 but he is was not able to present his SIN card because he does not have it and suspects his previous landlord has kept it together with some of his other belongings. He has tried to procure verification of his SIN from Service Canada but has not met with success so far as Service Canada cannot find the required information. In addition, he cannot be expected to learn how to operate a computer to apply to Service Canada on-line. Regarding the December 2012 to March 2013 bank statements the appellant argues that he has already provided all bank information requested and that he did not have a bank account during the period in question.

The ministry argues that the appellant is ineligible for income assistance because he has failed to provide verification of his SIN and bank statements from December 2012 to March 2013 in accordance with section 10 of the EAA despite the fact that he had been given many opportunities to comply with this request: multiple letters were mailed to the address provided by the advocate, ministry workers spoke with the advocate and advised what documents were still outstanding, and extensions had been granted. The ministry argues further that the appellant/advocate were aware what documents were requested and submitted some of these. During conversations the appellant/advocate never asked what documents were required but spoke on the need for more time.

The ministry argues that the appellant should have no difficulty getting verification of his SIN because it only takes 10 days on average to get a copy issued by the federal government.

Panel decision

Under section 10 of the EAA the ministry is entitled to request bank statements and verification of his SIN from the appellant. If the appellant fails to comply the ministry may declare him ineligible for income assistance.

Even though the appellant/advocate argue that they did not receive any requests by mail or any other avenue the panel finds that based on the evidence the appellant/advocate was aware what documents were requested: Three ministry letters dated July 5, July 19 and September 5 were listing the required information and were addressed and mailed to the appellant's address, which he confirms to be his current address at the hearing.

The panel finds that since the beginning of the appellant's file review ongoing communication occurred between the ministry and the appellant/advocate as documented by ministry records. Some of the requested documents were in fact submitted by the advocate at reconsideration. Since the

advocate addresses the time factor in connection with document submission in her reconsideration submission and in her communication with the ministry she must logically have been aware of what information the ministry requested. Ministry records show no evidence that the advocate was asking which documents were required.

The panel notes that the ministry provided the appellant with several extensions: In its July 19 letter the ministry moved the original submission deadline from July 19 to August 2. When subsequently the appellant in his Request for Reconsideration requested a 20 days extension the ministry granted the request and set a new due date of October 11. The ministry moved the cut-off date for the appellant's benefits from August to September. It could therefore not have come as a surprise when the appellant's assistance payments were discontinued as of September 2013 pursuant to section 10 of the EAA.

As there is no evidence to date that the appellant has submitted verification of his SIN and bank statements from December 2013 to March 2013 the panel finds the ministry's denial of continued income assistance to be a reasonable decision, especially since the ministry mailed multiple letters to the appellant, spoke to the appellant's advocate, provided extensions and moved the cut-off date for assistance one month ahead before discontinuing the appellant's assistance payments.

Conclusion

Having reviewed and considered all of the evidence and the relevant legislation the panel finds that the ministry's decision that the appellant was not eligible for income assistance was reasonably supported by the evidence and a reasonable application of the applicable legislation. Therefore the panel confirms the ministry's decision.