

APPEAL #

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) December 4, 2013 reconsideration decision denying the appellant income assistance because she failed to provide the information requested by the ministry under section 10 of the Employment and Assistance Act (EAA).

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:

3 receipts issued by the landlord for the sum of \$400 each for rent and utilities, dated August 1, September 1 and November 1, 2013:

- They were submitted by the appellant together with her Request for Reconsideration.
- The receipts are signed by the landlord but do not show who paid the rent.
- At the hearing the appellant stated that they were her receipts - she paid the rent.

In her Request for Reconsideration dated November 13, 2013 the appellant states that

- she did not receive any written notification, neither in the mail nor with her assistance cheque;
- the cheque was not signaled to identify a problem;
- she “talked to the ministry several times during this period and nobody mentioned this was required or pending”.

Information from ministry records:

A letter dated August 21, 2013 from the ministry

- informing the appellant of a scheduled telephone eligibility interview on Monday September 30, 2013 at 2pm and requesting the appellant to call a toll free number;
- stating that if the appellant does not attend the interview her assistance may be delayed or discontinued
- requesting all applicable documents from the checklist provided at least 2 days ahead of the interview;
- providing the following document checklist:

“...Please provide all of the following documents that apply to your situation:

Shelter Documents – renters

- Current rent receipt
- Current utility bills you are required to pay, including municipal services (water, garbage etc.)
- Tenancy Agreement

Shelter Documents – homeowners

[N/A]

Income (for all members of your family)

- Proof of all sources of income your family receives, including but not limited to:
- Pay stubs from employment (past two months)
- Private pensions and CPP
- Income from investments, stocks, bonds or other financial assets
- Child Tax Benefits
- WCB, ICBC, or other claims
- Rental income or income from roomer/boarder
- Last year’s Notice of Assessment for Income Tax for all adults in your family

Assets (for all members of your family)

- Past 60 days transactions records for all bank or credit union accounts (for all members of the family), whether owned solely or jointly with another person, including inactive accounts
- Proof of all accounts closed within the past 60 days, and a transaction record for the 30 days prior to closing
- Current documents of all investments, including RRSPs, Mutual Funds, Stocks/Bonds, GICs, Term Deposits, Shares, RESPs, RDSPs, etc.
- Vehicle registration and insurance for all vehicles you own
- Proof of all assets received since your application for assistance, such as an inheritance, lottery winnings, cash gifts, lump sum payments, insurance or lawsuit settlements, etc.
- If you have a trust, provide documents to show its current value, and all contributions and disbursements or payments made in the past two years
- Documents for any properties (house, land or other real estate) you own or partly/jointly own.

Self Employment

- If you are self-employed, bring full financial records for your business, including your corporate tax assessment"

A letter dated September 30, 2013 from the ministry

- informing the appellant that her file has been selected for review;
- stating that the appellant did not attend the September 30 eligibility interview;
- informing the appellant that this letter is the second notification of the requirement to attend an eligibility interview and to provide documentation;
- informing the appellant of a scheduled telephone eligibility interview on Thursday, October 17, at 3pm and requesting the appellant to call a toll free number;
- asking the appellant to contact the ministry if she has a current contact number;
- informing the appellant that if she does not contact the ministry by the date above her assistance will be discontinued;
- requesting all applicable documents from the checklist provided at least 2 days ahead of the interview;
- providing the same document checklist as in the previous letter.

A letter dated November 4, 2013 from the ministry stating that

- the appellant did not attend an eligibility interview;
- 2 letters were sent (August 21 and September 30) asking the appellant to attend an eligibility interview;
- the appellant is no longer eligible for assistance and her file will be closed on Monday December 2, 2013;
- the appellant has the right to request reconsideration and is asked to contact the office to obtain the forms required.

All 3 letters were addressed to the appellant's current address.

In her Notice of Appeal dated November 3, 2013 the appellant stated that

- she did not receive the ministry notification both times.

At the hearing the appellant gave her address and stated that this was her only current address. It is the same address the 3 ministry letters were addressed to. She and her husband live with his grandmother. The postal worker kept passing their home every day and the appellant's husband kept asking whether there was anything from the ministry but there never was. Eventually the postal worker suggested that it would be best if they went down to the post office.

They kept calling the ministry but the ministry never called back. Later the appellant stated that she called the ministry from her phone several times during this period and talked with the ministry about her re-evaluation. The appellant further stated that she handed in the rental receipts on November 13 because she was told to hand them in.

The ministry relied on its reconsideration decision and added the following information:
A community worker is currently helping the appellant with this issue. Ministry workers monitor service requests and mail out letters but do not make phone calls to follow up.

Pursuant to section 22(4) of the Employment and Assistance Act the panel admits the appellant'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 communication between appellant and ministry and the appellant's shelter circumstances.

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 she has failed to provide information requested by the ministry 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 she cannot be reasonably expected to provide information to the ministry when she is not aware of the ministry's requests. She did not receive either of the 2 request letters, only the 3rd letter informing her that she was no longer eligible and had the right to request reconsideration.

The ministry argues that the appellant is ineligible for income assistance because she ignored both request letters and failed to provide documents in accordance with section 10 of the EAA.

Panel decision

Under section 10 of the EAA the ministry is entitled to request information and documentation from a recipient to audit her eligibility. If the appellant fails to comply the ministry may declare her ineligible for income assistance.

The panel finds that based on the evidence the appellant was aware that documents were requested of her: Two ministry letters dated August 21 and September 30, 2013 listed the required information and were addressed and mailed to the appellant's correct address. Even though the appellant argues that she did not receive the first 2 of the 3 ministry letters the panel finds it to be improbable that 2 consecutive correctly addressed letters were not delivered at the appellant's address while the 3rd letter was.

When the appellant was cut off income assistance in November pursuant to section 10 of the EAA it was not unexpected: the appellant had been aware of her audit since she received the August 21 letter; at the same time her assistance still kept coming in.

As there is no evidence to date except for 3 rent receipts that the appellant has submitted the requested information the panel finds the ministry's denial of continued income assistance in accordance with section 32 of the EAR to be a reasonable decision, especially since the ministry sent multiple letters to the appellant and did not deny her assistance until several months after requesting information.

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.