

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (the Ministry) dated December 5, 2013, which held that the Appellant was not eligible for income assistance as a single person with one dependant because the Ministry found that the Appellant's living arrangement with her male roommate (Roommate) meets the definition of a dependant under section 1 of the *Employment Assistance Act* (EAA).

PART D – Relevant Legislation

Employment and Assistance Act (EAA), section 1
Employment and Assistance Regulation (EAR), section 1(1)

PART E – Summary of Facts

With the consent of both parties, the hearing was conducted as a written hearing pursuant to section 22(3)(b) of the EAA. Neither the Ministry nor the Appellant introduced any new evidence at the hearing of this appeal.

The documentary evidence before the Ministry was as follows:

- November 11, 2011 - The Appellant's application for assistance as a single person with one dependant child.
- February 25, 2013 – A copy of an entered Interim Default Order of the BC Provincial Court awarding support and maintenance payments to the Appellant's child from the Appellant's Roommate
- August 13, 2013 – The Appellant's re-application for income assistance as a single person with one dependant child
- October 25, 2013 – The Appellant's completed Shelter Information form, and requested utility bills, a bank profile and 3 months of bank statements
- November 15, 2013 – School Registration form for the Roommate's son, completed by his father

Chronology of events, supplementary to documents noted above:

- January 13, 2012 – The Appellant advised the Ministry that her Roommate was the father of her daughter and had agreed to a \$500 monthly maintenance payment for daughter. March 25, 2013 – The Appellant's file was closed as she failed to provide information to an Investigative Officer.
- October/November 2013 – The Appellant moved to a new location and, upon the request of the Ministry, provided a Shelter Information Form, utility bills, a bank profile and bank statements. Her landlord advised the Ministry that since September 1, 2013, the Appellant lived with her daughter, her Roommate and his son, another woman and her daughter and that the Appellant's Roommate was her fiancé.
- November 14, 2013 – The Appellant and her Roommate indicated to the Ministry that they presented themselves as a couple to secure the family home. They also indicated that their respective children looked to them as parental figures.
- November 15, 2013 – The Appellant confirmed to the Ministry that she had been residing with her Roommate since September 1, 2013.

Reasons for Appeal

In her Request for Reconsideration, dated November 22, 2013, the Appellant states that she and her Roommate are not a family unit, that although they live in the same house they are in their own rooms with another Roommate; that they are not in a relationship either physical or otherwise; that she needs to be able to pay her rent.

In her Notice of Appeal dated December 9, 2013, the Appellant states that she and her Roommate have decided to go their separate ways, that she was moving out of the house and looking for a place for her and her daughter. Further, the Appellant states that she is looking for work but until she finds work, without income assistance she will have no money.

The Ministry provided a written submission addressing the evidence in the Notice of Appeal and stated that it speaks to the Appellant's intended future living arrangements, not the situation that existed at the time of reconsideration. Upon review of this evidence, the panel found that although this was new evidence, it was not before the Ministry when the decision being appealed was made,

nor was it in support of that information as set out in section 22(4) of the EAA.

The panel finds that:

- the Appellant has one daughter for whom she receives a monthly maintenance payment from her Roommate under an Interim Default Order.
- the Appellant has been residing with her Roommate and his son since September 1, 2013 as co-tenants
- the Appellant was listed as step-mother for her Roommate's son at his school and the son looks to her as a mother figure; and
- her Roommate acts as a father to the Appellant's daughter

PART F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry's decision to deny the Appellant income assistance as a sole recipient with one dependant was reasonably supported by the evidence or a reasonable application of the applicable enactment in the circumstances of the Appellant. In particular, was the Ministry reasonable in determining that the Appellant's relationship with her Roommate meets the definition of 'dependant' as per section 1 of the EAA.

The relevant legislation is:

EAA

1 (1) In this Act:

"child" means an unmarried person under 19 years of age;

"dependant", in relation to a person, means anyone who resides with the person and who

- (a) is the spouse of the person,
- (b) is a dependant child of the person, or
- (c) indicates a parental role for the person's dependant child;

"family unit" means an Appellant or a recipient and his or her dependants;

"recipient" means the person in a family unit to or for whom income assistance, hardship assistance or a supplement is provided under this Act for the use or benefit of someone in the family unit, and includes

- (a) the person's spouse, if the spouse is a dependant, and
- (b) the person's adult dependants;

EAR

1 (1) In this regulation:

"sole", in relation to an Appellant or a recipient, means the Appellant's or recipient's family unit includes no other Appellant, recipient or adult dependant;

The Ministry takes the position that the Appellant's relationship meets the definition of 'dependant' as defined by section 1 of the EAA and therefore she is not eligible for income assistance as a sole recipient with one dependant child as defined by section 1(1) of the EAR. Specifically, the Ministry argues that the Appellant and her Roommate reside with one another and are in a parental role to one another's minor children.

The Appellant takes the position that she and her Roommate are not in a relationship in any way and that they presented themselves to their landlord as a couple only for the purpose of securing their rental property. She states that they have decided to go their separate ways and that she will be moving out of the house she shared with him. The Appellant now indicates that her Roommate is not the father of her child.

The panel notes that the Appellant's Roommate is financially responsible for the Appellant's daughter and this is reflected in the Interim Order. Further, in the November 14, 2013 letter, the Appellant notes that her Roommate's son looks up to her as a 'mom figure' and the Appellant's daughter has only known her Roommate as 'Dad'. Lastly, the panel notes that the Appellant is listed in her Roommate's son's Student Information Verification Form as his step-mother.

Based on the evidence set out above, the panel finds that the Ministry reasonably determined that:

- the Appellant's Roommate meets the definition of 'dependant' as set out in section 1 of the EAA because the Appellant and her Roommate act in parental roles for each other's children as set out in section 1 of the EAA, and further
- the Appellant is a family unit as set out in section 1 of the EAA.

The panel finds the Ministry's decision to deny the Appellant's application for income assistance as a sole recipient with one dependant child was a reasonable application of the applicable enactment in the circumstances of the Appellant and confirms the decision.