



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (Ministry) reconsideration decision dated February 12, 2014 finding the Appellant was not eligible for income assistance pursuant to section 10 of the Employment and Assistance Act (EAA) and section 32 of the Employment and Assistance Regulation (EAR) because she failed to provide the information requested by the Ministry.

PART D – Relevant Legislation

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



PART E – Summary of Facts

The Appellant was not in attendance at the hearing. After confirming that the Appellant was notified, the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation.

The evidence before the Ministry at reconsideration was as follows:

The Appellant is a sole recipient with no dependants.

- Ministry letter dated November 14, 2013 requesting information pursuant to section 10 of the EAA.
- Ministry letter dated November 14, 2013 indicating that the Appellant's December assistance cheque would be held until the information was provided.

The Appellant did not respond to the above noted letters.

- Ministry letter dated December 6, 2013 requesting information pursuant to section 10 of the EAA.
- Ministry letter dated December 6, 2013 indicating that the Appellant's December assistance cheque would be held until the information was provided.
- December 11, 2013, the Appellant provided the requested Tax Notice of Assessments for 2008-2012.
- January 8, 2014, Ministry sent a third letter noting the previous requests for information, and repeating their request for information, noting that the previously requested information had not been received and that the Appellant was no longer eligible for assistance.
- January 15, 2014, Appellant provided the requested Tax Notice of Assessments for 2004-2007.

Documentation requested in both the November 14 and December 6, 2013 letters and not provided by the Appellant included:

- 12 months of credit cards statements
- current rent receipt and utility bills
- a list of dates when she lived in locations other than her present location
- pay statements or pay stubs for all income
- Record of Employment from all employers from 2005 to present
- documents to confirm the status of her Employment Insurance from 2005 to present
- statements for all bank accounts
- statements for all investments, etc.
- T4s for 2004-2012
- explanation in detail regarding her ability to pay all expenses when her rent is equal to her income assistance
- monthly budget showing income and expenses
- January 24, 2014, the Appellant submitted a letter to the Ministry indicating that she was depressed and feared her landlord would force her to move out due to non-payment of rent; that she had attended classes at a college from September 30 to December 20, 2013 although she acknowledged that she had not notified or received authorization from the Ministry to do so; that she thought she should be eligible for assistance as a person with multiple barriers disability; that she had worked at an employer for a year and a half; that she suffered from various ailments such as carpal tunnel, bunions, a heart murmur, drugs and alcohol abuse.

[Redacted]

- The Appellant provided no evidence, oral or written, to support or verify claims made in this letter.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the Ministry's decision finding the Appellant is not eligible to receive income assistance until the Minister's direction is complied with pursuant to section 32 (1) of the EAR because she failed to comply with the direction of the Minister by not providing all of the requested information pursuant to section 10 (1)(e) and (4) of the EAA.

In the Appellant's Notice of Appeal dated February 20, 2014, she indicated that she was confused about what other information was required that she hadn't provided

The relevant legislation is section 10 of the Employment and Assistance Act (EAA) and section 32 of the Employment and Assistance Regulation (EAR).

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.

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.

(2) For the purposes of section 10 (5) [*information and verification*] of the Act,

- (a) the amount by which the minister may reduce the income assistance or hardship assistance of the dependent youth's family unit is \$100 for each calendar month, and
- (b) the period for which the minister may reduce the income assistance or hardship assistance of the dependent youth's family unit lasts until the dependent youth complies with the direction.

Section 10(1)(e) of the EAA sets out that the Minister may direct a recipient to supply information within the time and in the manner specified by the Minister and section 10(4) sets out that if a recipient fails to comply with the direction, the Minister may declare the recipient ineligible for income assistance for the prescribed period.

On appeal, the Ministry's position was that despite several written requests, the Appellant did not provide all of the requested information, and by not meeting the requirement set out under section 10 of the EAA, the Minister declared her ineligible for income assistance under section 10(4) of the EAA.

The Ministry indicated that they contacted the Appellant by letter on two occasions, November 14 and December 6, 2013, indicating that her file had been selected for a review and that information was being requested under section 10 of the EAA to determine current eligibility and auditing past eligibility for assistance pursuant to section 32 (1) of the EAR.

The Ministry sent the Appellant letters on November 14, 2013, one requesting several items of information under section 10 of the EAA and a second advising that her December assistance cheque was being held until the requested information was submitted.

The Ministry sent the Appellant letters on December 6, 2013 again requesting information and indicating that the Appellant's January assistance was being held until the information was provided. In the second letter, the Ministry also indicated that without this information being provided, the Ministry might be unable to determine her eligibility for assistance and might discontinue or adjust the amount of assistance or determine if an overpayment had occurred.

The panel finds that although the Appellant submitted her Income Tax Notices of Assessment for 2008 to 2012 on December 11, 2013, and her 2004 to 2007 assessments on January 14, 2014, she did not submit any of the other requested items. The Appellant's letter described her situation but provided no verification of its content or evidence contrary to the Ministry's submissions.

The panel found that the Ministry reasonably concluded that the Appellant did not meet the requirement of 10 of the EAA as she only provided one of the eleven requested items and that the Ministry reasonably concluded that the Appellant was not eligible for income assistance pursuant to section 10(4) because of her failure to comply with the Minister's direction under section 10(1)(e).

Section 32 of the EAR sets out that for the purposes of section 10 (4) of the EAA, the period for which the minister may declare the recipient ineligible for assistance lasts until the recipient complies with the Minister's direction.

On appeal, the Ministry indicated that on January 8, 2014, they sent the Appellant a letter, summarizing the content of the previous letters and indicating that because the requested information had not been provided, the Appellant was no longer eligible for assistance pursuant to section 32(1) of the EAR and that her file would be closed on January 14, 2014.

The panel found that the Ministry reasonably concluded that the period for which the Appellant was ineligible for assistance lasts until she complies with the direction pursuant to section 32 of the EAR as she did not comply with the Minister's direction under section 10(1)(e) of the EAA.

The panel finds the Ministry's determination that the Appellant did not provide requested information pursuant to section 10 of the EAA and is therefore not eligible for income assistance was a reasonable application of the applicable enactment in the circumstances of the Appellant. The panel found that the legislation, section 10 of the EAA and section 32 of the EAR, clearly set out the requirement in situations like that of the Appellant. As she did not provide the information requested, she was ineligible for income assistance until such time as she provides the information requested by the Minister.

Accordingly, the panel confirms the Ministry's reconsideration decision.