



### 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 January 20, 2014, which determined that the appellant was not eligible for income assistance (IA) as a sole recipient with dependent children because she and her son reside with his father. Specifically, the ministry determined that the appellant's son's father meets the definition of "dependant" as per section 1 of the Employment and Assistance Act (EAA) because the appellant and her son reside with his father and he indicates a parental role for his son.

### PART D – Relevant Legislation

Employment and Assistance Act (EAA) section 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 *Employment and Assistance Act* (EAA).

The documentary evidence before the ministry at reconsideration included the following:

- A copy of the appellant's Request for Reconsideration signed by the appellant January 7, 2014.
- A copy of a letter addressed "To Whom it may concern", signed by the appellant November 21, 2013. In this letter the appellant reports in regards to her request for reconsideration, she depends on IA for herself and three children in her care and that she has no other means of income because of a medical condition which prevents her from working. This submission then goes to argument (see Part F below).
- A copy of Schedule "A" of the appellant's Rental Agreement with the following changes made to the original document; appellant's son's fathers name has been crossed out with the comment next to it "does not reside there", initialed by the appellant, the names of the appellant's niece and nephew have been added and initialed by the appellant, and the make and model of two cars listed as being permitted to park on site have been crossed out with the comment next to it, "I do not own a vehicle" also initialed by the appellant.
- A copy of a ministry Shelter Information form in the appellant's name dated March 22, 2013.
- A copy of an Apartment Rental Agreement in the appellant's name and signed by her on March 26, 2013. The Agreement required a damage deposit of \$1100.00 dollars and rent of \$1100.00 payable monthly in advance of the first day of the month. Schedule "A" of this Agreement provides a list of persons permitted to share the use of the lands and premises with the renters pursuant to paragraph 1 (1)(a) of the rental agreement and includes the appellant, her son and his father with the comment in a arrow box beside his name stating "spouse"?
- A copy of a Back Deposit Register, in the appellant's son's father's name showing monthly deposits for rent made to the appellant's landlord between April 1, 2013 and November 21, 2013, as follows: April 1, 2013--\$1,100.00, May 7, 2013--\$400.00, June 17, 2013--\$600.00, July 2, 2013--\$1,100.00, August 12, 2013--\$950.00, August 28, 2013--\$800.00, September 9, 2013--\$1,000.00, October 21, 2013--\$500.00 for a total of \$6,450.00.
- A copy of an unsigned undated Application for IA in the appellant's current name, for herself and her son, declaring that she is single, never married, separated from spouse September 4, 2011, and lists her previous last name as being the same as her son and his father.
- Copy of 10 Day Notice to End Tenancy for Unpaid Rent or Utilities signed by the appellant's landlord and dated September 21, 2012.
- A copy of a fax cover sheet and accompanying copy of an Application for Residency, signed by the appellant May 14, 2012, listing the appellant's son's father as the primary applicant.
- A copy of a Residential Tenancy Agreement listing both the appellant and her son's father as tenants signed by the appellant May 17, 2012.
- A copy of a BC Assessment Role Report dated September 9, 2013, listing the appellant, her son's father, and another person as owners of the property.
- A copy of a Modification of Mortgage Loan Approval dated March 18, 2008, listing the appellant, her son's father, and another person as owners of the property.
- Application for IA and a Medical Service Plan Client Release document initialed and signed by the appellant May 28, 2009.
- A copy of a utility bill invoice showing the account name as the appellant's son's father, a billing date May 27, 2009, billing period March 25, 2009 to May 27, 2009, due date of June 26, 2009.

Following the ministry's Reconsideration Decision and prior to the hearing, the appellant submitted a 1 page written letter dated January 21, 2014. In her submission the appellant reported that her niece and nephew are no longer living with her and that she is now living alone with her son. The letter then goes to argument (see Part F below).

The Tribunal Office received a response to the appellant's submission included with her Notice of Appeal from the ministry dated February 18, 2014. The ministry reported that they were satisfied that the evidence supports their determination that the appellant resides with her son's father. The letter then goes to argument (see Part F below).

## PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's decision which determined that the appellant was not eligible for income assistance as a sole recipient with dependent children because she and her son reside with his father, is reasonably supported by the evidence, or is a reasonable application of the legislation in the circumstances of the appellant. Specifically the ministry determined that the appellant's son's father meets the definition of "dependant" as per section 1 of EAA because the appellant and her son reside with his father and he indicates a parental role for his son.

The applicable legislation in this matter is the following:

### Interpretation

#### 1 (1) In this Act:

"**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 dependent child of the person, or
- (c) indicates a parental role for the person's dependent child;

"**family unit**" means an applicant 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

The appellant's position is that she depends on IA to support herself and her son and that her son's father does not reside with her and has not done so for as long as she can remember. The ministry's position is that the appellant is not eligible for IA as a sole recipient with dependent children because she resides with her son's father and he indicates a parental role for his son.

In the appellant's submission of November 21, 2013, addressed "To Whom it may concern", which accompanied her Request for Reconsideration, the appellant argues that her son's father does not live with her and that she was unsure why his name was added to the rental agreement after she signed it. While her rent was transferred through her son's father's bank account in the past that will no longer be the case as she has opened her own bank account. The utility bills were put in his name more than four years ago and are for the property where he now resides. She is now paying her own bills and will be able to show that from this point on as she has opened her own bank account. The Ministry of Children and Family Development (MCFD) worker was mistaken. She may have been confused because her son's father was there the day the MCFD worker came to do a house visit. She is waiting for MCFD to get back to her with something in writing and she is going to provide personal and professional references stating that her son's father is not residing with her. She has also taken steps to have her name taken off of the jointly owned property.

In the appellant's submission of January 21, 2014, accompanying her Notice of Appeal, she argues that she does not have a spouse that lives with her or a spouse that does not live with her. "Until recently the only people that

live with me is myself and my son". The appellant's niece and nephew no longer live with her and have moved to another residence. The appellant further argues that she is the only one on her Rental Agreement and is unsure as to why her son's father's name was added to the end page of the agreement. She also argued that her current landlord has verified that her son's father does not live at her current residence and has never done so. The appellant concludes by arguing that she doesn't know what else she can do or say, both she and her son need support.

In the Reconsideration Decision and in their letter of response to the appellant's submission of January 21, 2014, the ministry argued that on October 9, 2013, they confirmed directly with MCFD and the appellant's landlord that the appellant's son's father is residing with her in her residence. The ministry further argued in their letter of response that as the appellant has not provided any confirmation from the landlord or MCFD to dispute their previous statements to the ministry and as this information is corroborated by the appellant's son's father's name being on the appellant's Tenancy Agreement, and the rent being paid from his account, the ministry is satisfied that the appellant's son's father meets the definition of "dependant" as per section 1 of EAA because the appellant and her son reside with his father and he indicates a parental role for his son. Therefore the ministry determined that the appellant is not eligible for IA as a sole recipient with dependent children.

#### Panel Findings

The panel finds although the appellant disputes the ministry's evidence that her son's father lives with her in her residence, and argues in her submission of November 21, 2013, that she is expecting a letter supporting her position from MCFD, and in her submission of January 21, 2014, that her current landlord has verified that her son's father does not live with her and has never lived at her residence, no documental evidence was submitted to support these arguments. The panel further finds that no documental evidence has been presented by the appellant that disputes the ministry's argument that their position is corroborated by documental evidence showing that her son's father's name appears on her Tenancy Agreement, and money for the rent of her residence was transferred to her landlord from his bank account from April 2013 to October 2013. For these reasons the panel has placed greater weight on the ministry's evidence than that of the appellant's.

The panel therefore finds, based on the evidence presented, the ministry was reasonable in determining that the appellant's son's father meets the definition of "dependant" as per section 1 of EAA listed above because he resides with the appellant and his son and indicates a parental role for the dependent child. For these reasons the panel finds the ministry reasonably determined that the appellant is not eligible for IA as a sole recipient with dependent children and that the ministry's Reconsideration Decision is reasonably supported by the evidence, and confirms the ministry's decision.