

PART C – Decision under Appeal

The decision under appeal is the ministry's reconsideration decision dated February 19, 2014 that held that in accordance with section 10 of the Employment and Assistance Act (EAA) and section 32 of the Employment and Assistance Regulation, the appellant was ineligible for further assistance until she complies with the direction to provide the ministry with a bank transaction record for deposits made to her account.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) section 10
Employment and Assistance Regulation section 32 (1)

PART E – Summary of Facts

The information before the ministry at the time of reconsideration included the following:

- Bank statements for the appellant's bank account showing all debits and credits to the account for the dates June 2012 to November 2013. Each of the statements has handwritten notes indicating if the transaction listed was for the appellant or her cousin.
- A letter dated January 20, 2014 addressed to the appellant from the ministry. The letter requests that the appellant provide details of each deposit made to her account and an all-accounts profile confirming all of the appellant's dealings with her bank. The letter read that this information was needed for the purposes of auditing her eligibility for further assistance.
- A letter dated December 3, 2013 addressed to the appellant from the ministry. The letter requests that the appellant provide, "confirmation of all deposits to your bank account.....you must provide confirmation of where the money came from, ie, a copy of a paystub or a copy of the cheque." As well as an all-accounts profile confirming all of the appellant's dealings with her bank. The letter read that this information was needed for the purposes of auditing her eligibility for further assistance.
- A note dated Oct 4 from a realtor stating, "rent paid in full."
- A school form dated November 26, 2013 confirming that the appellant's daughter is attending school.
- A letter dated November 14, 2013 addressed to the appellant from the ministry. The letter requests that the appellant provide rent receipts, student information for her daughter, and details of any deposit into her account. The letter read that this information was needed for the purposes of auditing her eligibility for further assistance.
- A Fortis statement, BC Hydro statement, and cable TV statement for the appellant's residence.
- A notice of assessment statement for the appellant for the tax year 2011 stating an income of \$11,249.
- Two ICBC insurance statements both in the name of the appellant for two different cars.
- A loan agreement from a computer company dated September 2012 in the name of the appellant's cousin.
- A copy of the appellant's driver's license.
- A letter dated October 21, 2013 addressed to the appellant from the ministry. The letter requests that the appellant provide identification, rent receipts, pay statements for her and her daughter, bank statements for her and her daughter, 2012 income tax confirmation, vehicle registration for the two vehicles registered in the appellant's name, student information for her daughter. The letter read that this information was needed for the purposes of auditing her eligibility for further assistance.
- A letter dated January 23, 2014 handwritten by the appellant to the ministry. The letter states that she has been very stressed by the audit process and that she is unable to provide the details of the deposits made to her account because the deposits were for her cousin and he was out of town until the middle of February. She adds that she will be moving to a new house on March 1, 2014.
- A letter dated November 6, 2013 handwritten by the appellant to the ministry. The letter states that the man she is living with is not her boyfriend but her cousin.
- A sworn statement dated February 5, 2014 by the appellant. In the statement the appellant

declares that she added her cousin to her bank account to ensure her rent was paid on time and that the attached list of bank deposit amounts and dates were made on her cousin's behalf and that the money was not hers. The statement reads, "Bank statements from our bank account show all deposits, however they do not provide the source of all deposits. I have documented each deposit with the date and amount that were [my cousin's]"

- A notice of assessment statement for the appellant for the tax year 2012 stating an income of \$9,945.
- A letter dated December 26, 2013 handwritten by the appellant's cousin stating that the deposits into the appellant's bank account that were identified as his were in fact made on his behalf.
- A letter dated January 30, 2013 written by the appellant's uncle confirming that the appellant's cousin lives with her.
- A letter dated January 29, 2013 written by the appellant's aunt confirming that the appellant's cousin lives with her.
- A request for reconsideration letter undated written by the appellant's advocate. The letter states that the appellant lives with her cousin and that the appellant is unable to provide the requested deposit details because her bank told her the information was unavailable.

At the hearing the appellant told the panel that she contacted her bank by phone asking for copies of the deposits she made to her account and she was told that it was likely the bank could reprint copies of the deposits for her. However, when she attended the branch the bank teller told her that they could not provide copies for her. This is the reason she went to a lawyer to swear a statutory declaration to support her position that the noted deposits were made by her cousin and the funds were completely his.

The appellant told the panel that the reason she let her cousin deposit into her account was because he was unable to get an account of his own. She said he normally used a cheque cashing service however this made it difficult for him to ensure his portion of the rent was paid each month when he was working out of town.

The appellant submitted a letter at the hearing dated March 14, 2014 addressed to her from her bank. It read that the bank would provide her detailed copies of the deposits into her account by May 5, 2014. This letter was admitted as evidence as per the Employment and Assistance Act section 22 (4). The panel found that the evidence contained in the document is in support of evidence that was before the ministry at the time of the reconsideration. The letter was accepted because it offers an update to the appellant's attempts to obtain details of the deposits made to her account. The ministry had no objections to the letter being accepted as evidence.

The appellant told the panel that she should continue to be eligible because the deposits made to her account were not hers. She added that her cousin spent his money and that she did not keep any of his money.

At the hearing the ministry told the panel that the loss management and prevention department conducted a review of the appellant. Under EAA section 10 the ministry has the discretion to request any information required to complete the audit. The appellant was asked for standard confirmations needed to determine her eligibility including ID, rent details, bank information, and family status. The

ministry told the panel that generally recipients of assistance that are audited do not have difficulty obtaining copies of any deposits that were made to their account.

The ministry told the panel that in the case of the appellant she has been on and off income assistance for 23 years and that she should have know that using her bank account to deposit another person's cheque could require a detailed explanation to the ministry in the future. The ministry concluded by telling the panel that since the appellant received conflicting answers from her bank when she requested the information she should have made further inquiries and pushed harder to get the deposit details.

The panel finds as fact:

- The appellant received a request for information from the ministry on October 21, 2013.
- The appellant provided the ministry all the requested information except for details and supporting documents for a series of deposits made to her bank account.
- The appellant provided the ministry with a sworn declaration stating that the deposits in question were made in her cousin's behalf and the funds were his not hers.
- The appellant's bank has confirmed that they will provide her with the requested deposit details by May 5, 2014.

PART F – Reasons for Panel Decision

The issue in this case is the reasonableness of the ministry's decision that the appellant does not qualify for further assistance until she provides detailed bank transaction records for deposits made to her bank account. The ministry found that she had provided all the requested information with the exception of the deposit details.

The legislation states:

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.

It is the ministry's position that the appellant has not provided all the information requested of her. The ministry maintains that the information requested is required to establish her eligibility for continued assistance and the appellant is obligated to provide it as stated in EAA Section 10.

It is the position of the appellant that she has made all reasonable efforts to provide the ministry with everything requested however her bank told her that the documents detailing the deposits to her account were not available. The appellant asserts that she should be found eligible for continued assistance because she has provided a sworn statement declaring that the deposits in question were not hers.

The panel considered the evidence presented both in the appeal record and at the hearing. Regarding the sworn statement dated February 5, 2014 the panel finds that the ministry was reasonable in finding that it did not suffice to fulfill the ministry's request for details of the deposits. While the sworn statement asserts that the deposits were made on behalf of her cousin, it does not provide the requested detail, specifically, "confirmation of where the money came from, ie, a copy of a

paystub or a copy of the cheque” as stated in the request.

Regarding the appellant's argument that she should continue to be eligible for assistance because her sworn statement declares the deposits were not hers, the panel finds the ministry based its reconsideration decision on the fact that the information was not provided and it, therefore, was not able to complete the audit for eligibility. The panel cannot determine the reasonableness of the outcome of the ministry's audit because it had not rendered a decision due to the fact that the requested information was not provided. The reconsideration decision does not declare the appellant ineligible for assistance based on the funds belonging to her but rather it determines she has not fulfilled her requirements under EAA section 10.

The panel considered the new evidence, the bank letter, provided by the appellant at the hearing. The letter from her bank states that her request for the deposit details is in process and will be completed by May 5, 2014. Although the panel accepts that the information is forthcoming, the panel cannot consider the requirement for the information as fulfilled since the request is still in progress. The panel finds that the ministry was reasonable to find that the appellant remains ineligible for further assistance until the requested information is provided in accordance with section 32 of the EAR.

The panel finds that the ministry's reconsideration decision was reasonably supported by the evidence and confirms the ministry's decision.