

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of February 17, 2014, which denied the appellant’s application for hardship assistance for February, 2014, pursuant to Employment and Assistance Regulation (EAR) section 44, as it was determined that the income of the family unit was in excess of the assistance rate and that this income could reasonably be expected to meet the family’s basic needs.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) Part 1 (1)
Employment and Assistance Regulation (EAR) sections 39, 44, and Schedule D

PART E – Summary of Facts

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

- An Application for Income Assistance, completed by the appellant, received by the ministry office February 3, 2014, to provide assistance for herself and her 18 year old dependent son.
- A copy of the appellant's bank statement, listing transactions from December 1, 2013 until January 20, 2014, as well as an additional Transaction History slip for January 24 to 27, 2014, which stated that the appellant earned \$5857.27 in December 2013 and \$2700.75 in January 2014.
- The appellant received an eviction notice from her landlord on February 2, 2014 due to unpaid rent of \$1550.00. The appellant indicated that she had requested that her landlord apply her \$1550.00 security deposit toward her February 2014 rent while she was seeking new accommodations.
- A copy of the appellant's AOB, (a WebAOBBlink report issued by EI), dated February 4, 2014, indicating that the appellant's EI benefits start date was December 29, 2013. The appellant receives a weekly EI rate of \$514.00 (less \$44.00 deducted at the source for tax, and less \$52.00 for an overpayment) = \$418.00 net per week X 4 weeks = \$1672.00. However, her monthly EI income used for assessing eligibility for income assistance and hardship assistance was \$1880.00 (\$514.00 less allowable income tax deduction of \$44.00 = \$470.00 per week X 4 weeks = \$1880.00), because only the mandatory income tax deduction at source (\$44.00 per week) is allowed as a deduction for calculating net income, according to EAR Schedule B (2). The appellant received \$254.00 in EI benefits on January 24, 2014, and her first full EI payment of \$836.00 was received on February 2, 2014, according to the AOB records.

On February 5, 2014 the appellant submitted a Request for Reconsideration.

- She indicated that she had expected to work over Christmas but got laid off on December 25.
- She wrote that she "received (her) first EI with less deductions, 2nd check, I have given the property manager \$400 yesterday, Feb.4/14".
- She wrote that her landlord told her that if she came up with half of what was owed he would "consider the balance before (the) end of the month".
- She wrote that she and her son would be evicted if she did not come up with the \$375.00 that was still owed. She was requesting the ministry provide \$375.00 to assist her in avoiding eviction.
- She wrote that she was actively looking for employment, belongs to a union, and was expecting to return to work soon. She had worked hard for 10 years (with shifts 21 days on and 7 days off), and is a single mom with a dependent son, (no support from biological father).

- The appellant did not attend the hearing. Having confirmed that the appellant was notified of the hearing, the panel proceeded with the hearing, pursuant to the Employment and Assistance Act; section 86 (b).

- The ministry relied on the reconsideration decision and did not provide any new information.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's decision to deny the appellant's application for hardship assistance was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

The relevant legislation is as follows:

Employment and Assistance Act:

1. (1) In this Act:

"applicant" means the person in a family unit who applies under this Act for income assistance, hardship assistance or a supplement on behalf of the family unit, and includes

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

"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 dependent child of the person, or
- (c) indicates a parental role for the person's dependent child; (B.C. Reg. 131/2012) (B.C. Reg. 193/2006)

"dependent child", with respect to a parent, means a child, other than a child who is 18 years of age and is a person with disabilities, who resides in the parent's place of residence for more than 50% of each month and relies on that parent for the necessities of life, and includes a child in circumstances prescribed under subsection (2);

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

"hardship assistance" means an amount for shelter and support provided under section 5 (1) [*hardship assistance*];

"income assistance" means an amount for shelter and support provided under section 4 [*income assistance and supplements*];

"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;

"supplement" means any form of assistance specified by regulation, other than income assistance, hardship assistance or financial assistance provided under section 6 [*financial assistance to service or program providers*] and, without limitation, includes access to programs established or funded under this Act;

Employment and Assistance Regulations:

Hardship assistance - eligibility and limitations

39 (1) For a family unit to be eligible for hardship assistance, the family unit

(a) must be ineligible for income assistance for one or more reasons set out in sections 41 to 47.2, and (B.C. Reg. 102/2008) (B.C. Reg. 197/2012)

(b) must not be ineligible for income assistance for any other reason. (B.C. Reg. 161/2004)

(2) A family unit that is eligible for hardship assistance must be provided with hardship assistance

(a) in accordance with Schedule D,

(b) only for the calendar month that includes the date of the applicant's submission of the application for income assistance (part 2) form, and (B.C. Reg. 304/2005)

(c) only from the date in that calendar month on which the minister determines that the family unit is eligible for hardship assistance, subject to

(i) section 4 (2) of Schedule D for hardship assistance provided under sections 41 to 47.1 and

(ii) section 4 (3) of Schedule D for hardship assistance provided under section 47.2. (B.C. Reg. 161/2004) (B.C. Reg. 197/2012)

(3) A family unit to which hardship assistance has been provided for 3 consecutive calendar months because of the circumstances described in

(a) section 41, 44 or 46, or

(b) section 43, unless the source is employment insurance,

is not eligible for hardship assistance under any of those sections for the 3 consecutive calendar months immediately following those 3 consecutive calendar months of receipt. (B.C. Reg. 161/2004)

(4) If

(a) hardship assistance has been provided to a family unit under section 47.2 for the calendar month referred to in subsection (2) (c) of this section,

(b) the family unit continues to be ineligible for income assistance because a member of the family unit has not satisfied the requirement under section 4.1 (2) (b) respecting the completion of searches for employment, and

(c) the member of the family unit who has not satisfied that requirement is, if

applicable, taking the steps to satisfy the requirement as directed by the minister, hardship assistance may be provided under section 47.2 for a further 2 consecutive calendar months following the initial calendar month for which the hardship assistance is provided.

(B.C. Reg. 197/2012)

Family units that have excess income

44 The minister may provide hardship assistance to a family unit that is not eligible for income assistance because the income of the family unit exceeds the limit under section 10 [*limits on income*] if

- (a) the minister considers that undue hardship will otherwise occur,
- (b) the applicant provides the type of security specified by the minister for the repayment of the hardship assistance,
- (c) the family unit includes one or more dependent children, and
- (d) the income that causes the family unit to be ineligible for income assistance could not, in the minister's opinion, reasonably be expected to be used to meet the family unit's basic needs.

Schedule D

Hardship Assistance

No entitlement to a specific amount of hardship assistance

- 1** (1) The minister may provide a family unit that is eligible for hardship assistance under Part 4 of this regulation an amount not exceeding the amounts authorized by this Schedule.
- (2) Subject to subsection (1), the actual amount of hardship assistance to be provided under this Schedule is in the discretion of the minister based on the financial need of the applicant's family unit.
- (3) Nothing in this Schedule or in Part 4 of this regulation entitles a family unit to a specific amount of hardship assistance.

* * * * *

The appellant, having unpaid rent of \$1550.00, and with her landlord's permission to pay half of it at the beginning and half at the end of the month, paid \$400.00, but was short \$375.00. She applied for hardship assistance in the amount of \$375.00 to cover her rent deficit. She wrote that she was actively looking for work, and was expecting to be employed soon.

In its reconsideration decision the ministry found that the appellant was ineligible for income assistance as she received monthly EI benefits of \$1880.00 (after the allowable tax deduction), considered unearned income, in excess of the \$1130.66 income assistance rate for a single recipient with one dependent child, as per EAR section 10.

The ministry then considered her application for repayable hardship assistance. The ministry reviewed the appellant's bank statements and noted that, after being laid off on December 25, 2013, she received a deposit of \$2700.75 in employment earnings on January 3, 2014, as well as EI benefits of \$254.00 deposited January 24, 2014. On the date of her application for hardship assistance, the appellant received \$836.00 in EI benefits. She was also expected to receive \$836.00 bi-weekly in EI benefits from that point forward. It was the opinion of the ministry that the income that caused the appellant's family unit to be ineligible for income assistance could reasonably be expected to be used to meet the family's basic needs, as per EAR section 44. As a result, the appellant's request for \$375.00 hardship assistance was denied.

The panel reviewed the evidence and concurs that the \$1880.00 received in monthly EI benefits, (considered unearned income), that caused the appellant's family unit to be ineligible for income assistance could reasonably be expected to be used to meet the family's basic needs, as per EAR section 44.

In conclusion, the panel finds that the ministry's reconsideration decision, to deny the appellant's application for hardship assistance for February 2014 because she did not meet the criteria under EAR section 44, was reasonably supported by the evidence and was a reasonable application of the legislation in the circumstances of the appellant.

The panel thus confirms the ministry's decision.