

### PART C – Decision under Appeal

This is an appeal of the reconsideration decision of the Ministry of Social Development and Social Innovation (Ministry) dated February 13, 2014, in which the Ministry denied the Appellant income assistance due to failure to apply for assistance on behalf of her entire family unit, as required by section 5(1) of the *Employment and Assistance Regulation*.

### PART D – Relevant Legislation

*Employment and Assistance Act* (EAA) sections 1 and 1.1.  
*Employment and Assistance Regulation* (EAR), section 5.

## PART E – Summary of Facts

With the consent of the parties, the appeal hearing was conducted in writing in accordance with s. 22(3)(b) of the *Employment and Assistance Act*.

The information before the Ministry at reconsideration included the following documents:

- A copy of the Appellant's residential tenancy agreement dated December 4, 2013 showing the tenants of the rental property to be the Appellant, her mother, and the father of the Appellant's child;
- A copy of a birth registration summary for the Appellant's child indicating that the child was born in December 2013 and providing the name of the child's father;
- A copy of an application for a birth certificate for the Appellant's child indicating that the child was born in December 2013 and providing the name of the child's father;
- A copy of a Ministry information/documentation checklist dated September 27, 2013; and
- A one-page handwritten letter from the Appellant's mother dated September 23, 2013 in which she wrote that the Appellant is renting a 1-bedroom suite in her mother's basement and providing information about the amount of rent and utilities.

At reconsideration, the Ministry also had the appellant's written submission dated January 30, 2014, in which the Appellant wrote that she is not in a relationship with the father of her child. She wrote that the father of her child rents the second bedroom of the apartment in which she lives with the child, that she pays half the rent, plus half the cost of utilities, and pays for her own food and expenses. She wrote that she takes care of her child full-time. She wrote, "I could not find a suitable and affordable home to live in for my child and I in such a short time before my child was born; therefore I had to take on a roommate; someone I can somewhat trust with my belongings and my child. I have no idea how much my roommate makes, all I care about is that his portion of the rent and hydro & cable are paid on time until I find a new roommate in the near future." The Appellant also wrote in her submissions that "at no time did I mention that my roommate provides me with any financial assistance for me or my child. He does not provide any financial assistance except his portion of rent, cable, hydro. My roommate (child's father) has not been here through my whole pregnancy or living with me at any time before my child was born, therefore we are not in a relationship."

In her hand-written submission in her Notice of Appeal, the Appellant wrote, "... It's morally wrong that [the Ministry] will not provide me assistance for myself and my newborn baby based on the fact that I was honest about receiving a pack of diapers from my baby's father. ... My roommate who is the baby's father will not let me live there for free and he will not support me financially."

The Ministry relied on the reconsideration decision, which states that the Appellant applied for income assistance as a single person in September 2013 and indicated in her application that she was renting her mother's 1-bedroom basement suite and that her mother, her husband and their children lived upstairs from the Appellant. The Appellant reported to the Ministry on January 6, 2014 that she gave birth in late December 2013 and she was moving in with the baby's father, reporting that they would have separate rooms and are not financially dependent on each other. The Ministry concluded that the father on the birth registration and birth certificate provided by the Appellant is the same person as the other tenant on the residential tenancy agreement (although his last name is different). The Appellant does not dispute this.

In the reconsideration decision, the Ministry notes that on January 29, 2014 the Appellant advised the Ministry that the father of her baby is her roommate, but when the Ministry gave the Appellant the option of adding the father of her baby to her income assistance file, she "advised that [she] did not want to as he is working." The reconsideration decision also states that the Appellant provided information to the Ministry that the Appellant moved out of her parent's home to live with the father of her child immediately after the child was born, that her child's father is the only person she can trust to be with her child, and she acknowledges that he assists with diapers and formula, is employed and that the Appellant takes care of the child. The reconsideration decision states that based on the information provided, the minister did not deem the Appellant and the father of her child to be spouses under the legislation. In the reconsideration decision, the Ministry determined that the Appellant's roommate "has a parental role with [her] dependent child. As such, the minister determines he meets the definition of a dependant." The Ministry determined that as the Appellant had not included the father of her child who was her dependant in her application for assistance, she was ineligible for income assistance because she failed to apply for assistance on behalf of her entire family unit.

## PART F – Reasons for Panel Decision

The issue on this appeal is whether the Ministry's determination that the appellant is not eligible for income assistance because she has failed to apply on behalf of her entire family unit (including the father of her child as her dependant), as required by section 5(1) of the EAR, is reasonable.

### *Applicable legislation*

Section 5(1) of the EAR sets out the applicant requirements for income assistance, providing that "for a family unit to be eligible for income assistance or a supplement, an adult in the family unit must apply for the income assistance or supplement on behalf of the family unit unless (a) the family unit does not include an adult, or (b) the spouse of an adult applicant has not reached 19 years of age, in which case that spouse must apply with the adult applicant."

In sections 1 and 1.1 of the EAA, the definitions of "dependant", "family unit" and "spouse" are set out as follows:

### 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 responsibility for the person's dependent child;

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

"spouse" has the meaning in section 1.1;

### Meaning of "spouse"

1.1(1) Two persons, including persons of the same gender, are spouses of each other for the purposes of this Act if

- (a) they are married to each other, or
- (b) they acknowledge to the minister that they are residing together in a marriage-like relationship.

(2) Two persons who reside together, including persons of the same gender, are spouses of each other for the purposes of this Act if

- (a) they have resided together for at least
  - (i) the previous 3 consecutive months, or
  - (ii) 9 of the previous 12 months, and
- (b) the minister is satisfied that the relationship demonstrates
  - (i) financial dependence or interdependence, and
  - (ii) social and familial interdependence, consistent with a marriage-like relationship.

The Appellant's submissions indicate she and her child live in the same apartment with the father of her child and both adults pay an equal portion of the rent and split the utility bills and purchase their own food. The Appellant indicates that she looks after the child full-time, but she does not dispute that she shares an apartment with the father of her child and that this is because she can trust him with their child. In its reconsideration decision, the Ministry noted that the Appellant and the father of her child were not deemed to be spouses under subs. 1.1(1) or 1.1(2) of the EAA. However, the Ministry determined that the father of the Appellant's child is a "dependant" under section 1(1) of the

EAA because he is in a parental role to the Appellant's dependent child.

Subsection 5(1) of the EAR requires that, in applying for income assistance, the Appellant must apply for income assistance on the basis of her "family unit." As provided in the definitions under subs. 1(1) of the EAA, the Appellant's "family unit" means the Appellant and her dependants and this includes anyone who resides with the Appellant and who indicates a parental role for the Appellant's dependent child. The Appellant does not dispute that she lives with the father of her dependent child and that he has a parental role for her dependent child as she acknowledges that she trusts him with the care of their child and that he has provided some necessities for the child (diapers and formula). The appellant has not provided this panel (or the Ministry) evidence that the father of her child does not indicate a parental role for her dependent child.

Accordingly, the panel finds that the Ministry's determination that the Appellant is not eligible for income assistance because she has failed to apply on behalf of her entire family unit (including the father of her child as her dependant), as required by section 5(1) of the EAR, is reasonable based on the evidence and is a reasonable application of the applicable enactment in the circumstances of the appellant. The panel therefore confirms the Ministry's decision.