

APPEAL #

PART C – Decision under Appeal

This is an appeal of the reconsideration decision of the Ministry of Social Development and Social Innovation (ministry) dated December 5, 2013, in which the ministry determined that the appellant was not eligible for support allowance from September 18-November 11, 2013 and was not eligible for shelter allowance for October 2013 because these periods occurred before November 12, 2013, the date on which the minister determined the appellant was eligible for income assistance, in accordance with section 26 of the *Employment and Assistance Regulation*.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR), section 26.

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 eviction notice dated October 2, 2013 indicating that he would be evicted from his rental accommodation on October 12, 2013 if he did not pay his rent of \$425.00;
- A copy of a handwritten letter dated October 22, 2013 from the appellant's friend stating that on October 11, 2013, she paid the appellant's landlord \$425.00 for the appellant's October 2013 rent;
- A copy of the ministry's application for income assistance (part 1) form (3 pages), indicating on page 2 that the appellant provided his verbal consent for the ministry to proceed with his application on October 22, 2013 and which was signed on page 3 by the appellant and date stamped November 12, 2013;
- A copy of the ministry's application for income assistance (part 2) form (4 pages), each page initialed by the appellant and date stamped November 12, 2013 and the last page signed by the appellant and date stamped November 12, 2013; and
- A copy of a handwritten letter dated November 21, 2013 from the appellant's friend stating that she was verifying that the appellant "started his application for emergency funding" on September 18, 2013 and that she loaned the appellant \$425 for October 2013 rent "knowing that he applied for emergency funding and that he was told (once his eviction notice was supplied to social services) the claim would be started to refund the money." She states that she has not received any repayment for the appellant's October 2013 rent.

At reconsideration, the ministry also had the appellant's request for reconsideration form dated November 22, 2013 to which he attached his eviction notice and the letter from his friend regarding his October 2013 rent, and on which he wrote the following submissions:

- Borrowing money from his friend to pay his October 2013 rent "is not a form of income";
- He provided his eviction notice to the ministry office on October 3, 2013, but a ministry employee told him on October 11, 2013 that it "was not processed correctly";
- The delay caused by the ministry office also caused the appellant's November 2013 assistance "to be prorated to November 12, 2013. If it was not delayed the full amount for November would have been paid"; and
- The appellant started his file for emergency funding September 18, 2013.

In his hand-written submission on the notice of appeal dated December 17, 2013, the appellant wrote, "Delays caused by the [ministry] office. Rent for October was paid by [his friend], [ministry] office considers this income to me. It is not, it is a loan."

The ministry relied on the reconsideration decision, which states the following:

- On October 3, 2013, the appellant brought an eviction notice to the ministry office;
- On October 22, 2013, the appellant applied for income assistance over the telephone and the ministry requested he submit various documents as part of his application;
- On October 23, 2013, the appellant submitted the requested documents to the ministry office;

- On November 6, 2013, the ministry requested the appellant to submit confirmation that he no longer had a bank account at a particular bank;
- On November 7, 2013, the appellant supplied the ministry confirmation that he still held accounts with the bank and the ministry asked him to provide a 60-day bank statement and bank profile listing all of his accounts; and
- On November 12, 2013, the appellant contacted the ministry to advise that he had submitted all of the documents requested by the ministry.

The reconsideration decision states that the appellant was determined eligible for income assistance on November 12, 2013, and signed his application for income assistance (part 2) form. The ministry determined the appellant eligible for November 2013 shelter allowance and prorated November 2013 support allowance. The appellant is currently receiving income assistance as a sole recipient.

PART F – Reasons for Panel Decision

The issue on this appeal is whether it was reasonable for the ministry to determine that the appellant is not eligible for shelter allowance for October 2013 and is not eligible for support allowance for the period from September 18 to November 11, 2013 because these periods occurred before the minister determined that he was eligible for income assistance on November 12, 2013.

Applicable legislation

Section 26 of the EAR sets out the effective date of eligibility as follows:

26(1) Except as provided in subsection (2), (2.1) or (3.1) a family unit is not eligible for income assistance or supplements in respect of a period that occurred before the date the minister determines the family unit is eligible for the income assistance or supplements, as applicable.

(2) A family unit becomes eligible

- a) for a support allowance under sections 2 and 3 of Schedule A on the date of the applicant's submission of the application for income assistance (part 2) form,
- b) for a shelter allowance under sections 4 and 5 of Schedule A on the first day of the calendar month that includes the date of the applicant's submission of the application for income assistance (part 2) form, but only for that portion of that month's shelter costs that remains unpaid on the date of that submission, and
- c) for income assistance under sections 6 to 10 of Schedule A on the date of the applicant's submission of the application for income assistance (part 2) form,
- d) repealed.

Subsections 26(2.1), (3), (3.1), (4) and (5) of the EAR do not apply to the appellant.

The appellant's submissions indicate that he contacted the ministry to request emergency assistance on September 18, 2013, which his friend also stated in her letter of November 21, 2013. The appellant says that he provided the ministry with a copy of his eviction notice on October 3, 2013, and that his friend paid his October 2013 rent as a loan. The appellant's friend confirms in her letters that she paid the appellant's landlord his October rent (\$425). The appellant argues that he should be eligible for support allowance for the period from when he requested emergency assistance on September 18, 2013 to the date he was determined eligible for income assistance on November 12, 2013 as the ministry caused the delays. The appellant also argues that he should receive shelter allowance for October 2013 as he requested emergency assistance on September 18, 2013 and he has to repay \$425 to his friend as this was a loan. The appellant does not dispute that he submitted and signed the application for income assistance (part 2) form on November 12, 2013.

The reconsideration decision states that the minister considers the application for income assistance (part 2) submission date as the date the person signs the application (part 2) form. The appellant's application for income assistance (part 2) form was submitted and signed by the appellant on November 12, 2013 and this was the date the minister determined the appellant became eligible for income assistance under subs. 26(1) of the EAR, including for support allowance under subs. 26(2)(a) of the EAR. The ministry stated that the appellant is not eligible for support allowance for the period from September 18, 2013 to November 11, 2013 because he did not become eligible for support allowance until November 12, 2013 (as provided under subsection 26(2)(a) of the EAR) and

Accordingly, this period occurred before the minister determined he was eligible for income assistance which is not allowed under subsection 26(1) of the EAR. As set out in the reconsideration decision, because the minister determined the appellant was eligible for income assistance on November 12, 2013, the ministry determined that the appellant was not eligible for shelter allowance for October 2013 because section 26(2)(b) provides that the appellant became eligible for shelter allowance on the first day of the calendar month that includes the date of the appellant's submission for application for income assistance (part 2) form (November 12, 2013).

Panel's Analysis and Decision

The legislation clearly sets out in subs. 26(2)(a) of the EAR that a family unit becomes eligible for support allowance on the date of the applicant's submission of the application for income assistance (part 2) form. Further, the legislation clearly sets out in subs. 26(2)(b) of the EAR that a family unit becomes eligible for shelter allowance on the first day of the calendar month that includes the date of the applicant's submission of the application for income assistance (part 2) form. The appellant does not dispute that his application for income assistance (part 2) form was submitted and signed on November 12, 2013 and that this is the date on which the minister determined that he was eligible for income assistance.

The panel finds that the ministry's determination that the appellant was ineligible for support allowance for the period from September 18, 2013 to November 11, 2013 (the day before the date the minister determined he was eligible for income assistance on November 12, 2013) was a reasonable application of subsection 26(1) of the EAR in the circumstances of the appellant. The evidence before the ministry and this panel confirms that the appellant became eligible for support allowance under subs. 26(2)(a) of the EAR on November 12, 2013 (the date the appellant's application for income assistance (part 2) form was submitted and signed). As the period of September 18, 2013 to November 11, 2013 occurred before November 12, 2013, the ministry's determination that he was ineligible for support allowance during this period was reasonable based on the evidence.

Further, the panel finds that because the minister determined the appellant eligible for income assistance on November 12, 2013 – which the appellant does not dispute – the ministry's determination that the appellant was not eligible for shelter allowance for October 2013 was a reasonable application of the legislation to the appellant's circumstances. Subsection 26(2)(b) provides that a person becomes eligible for shelter allowance on the first day of the calendar month that includes the date of the submission of the application for income assistance (part 2) form, which in this case is November 2013.

Accordingly, the panel finds that the ministry's determination that, because the minister determined the appellant was eligible for income assistance on November 12, 2013, the appellant is not eligible for support allowance for the period from September 18, 2013 to November 11, 2013 and is not eligible for shelter allowance for October 2013 because these periods occurred before he became eligible for income assistance as set out in section 26 of the EAR. The panel therefore confirms the Ministry's decision.