

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 April 25, 2014, which held that the appellant is not eligible to receive income assistance (IA) as he failed to provide information as required under section 10 of the Employment and Assistance Act (EAA) and section 32 of the Employment and Assistance Regulation (EAR). Specifically the ministry determined that the following documents listed on the ministry "Document Checklist", apply to the appellant's situation: a current telephone bill, last year's Income Tax Notice of Assessment and a current rent receipt. As these required documents were not submitted in the time and manner specified by the ministry, the appellant was found ineligible to receive IA.

PART D – Relevant Legislation

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

PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration includes the following:

- The appellant receives IA as a sole recipient, whose file was opened in 2012.
- The appellant's Request for Reconsideration signed and dated by the appellant April 13, 2013. In Section 3, completed by the appellant, he writes that he apologizes for the misunderstanding, recognizes the importance of the ministry's request and is accountable for his non-compliance. The appellant states he spent 12 years on the street and would hate to wind up on the street now. Along with the appellant's Request for Reconsideration he submitted:
 1. A copy of his application for a Rent Supplement showing occupancy date of April 3, 2013.
 2. A copy of his Residential Tenancy Agreement which he signed April 16, 2013.
 3. A copy of his Tenant Confirmation form signed by the appellant April 16, 2013, and the representative in April, no day or year was specified.
- A ministry letter to the appellant dated September 24, 2013, informing him that he had been selected for a file review, explaining the process that will be followed, specifying the date by which all documents must be submitted to the ministry (October 15, 2013), and noted that if the ministry does not receive the requested documents by the specified date, the appellant's assistance may be delayed or discontinued. Accompanying this letter was a Document Checklist instructing the appellant to provide all of the documents that apply to his situation including:

Shelter documents - renters

1. Current rent receipts
2. Current utility bills, including municipal service (water garbage etc)
3. Tenancy Agreement

Shelter documents - homeowners

1. Proof of mortgage payment (past two months)
2. Current utility bills, including municipal service (water garbage etc)
3. Property insurance and Property Tax assessment statement
4. Proof of condo or strata fees or maintenance charges

Income (for all members of your family)

Proof of all sources of income your family receives, including but not limited to:

1. Pay stubs from employment (past two months)
2. Private pensions and CPP
3. Income from investments, stocks, bonds, or other financial assets
4. Child Tax Benefits
5. WCB, ICBC or other claims
6. Rental income or income from roomer/boarder

Last years Notice of assessment for income Taxes for all adults in your family

Assets (for all members of your family)

1. Past 60 days transaction records for all bank or credit union accounts (for all members of your family), whether own solely or jointly with another person, including inactive accounts
2. Proof of all accounts closed in the past 90 days, and a transaction record for 30 days prior to closing
3. Current documents for all investments, including RRSPs, Mutual Funds, Stocks/Bonds, GICs, Term Deposits, Shares, RESPs, RDSPs, etc.
4. Vehicle registration and insurance for all vehicles you own
5. Proof of all assets received since applying for assistance, such as an inheritance, lottery winnings, cash gifts, lump sum payments, insurance or lawsuit settlements, etc.
6. If you have trust, provide documents to show the current value, and all contributions and disbursements

or payments made in the past two years

7. Documents for any properties, (house, land or any other real estate) you own or partly/jointly own

Self Employment

1. If you are self-employed, bring full financial records for your business, including your corporate tax assessment

- A ministry letter to the appellant dated December 10, 2013, reminding him that he had not complied with their letter of September 24, 2013, providing him once again with a copy of the Document Checklist, the date they must be provided to the ministry by, (November 27, 2013) and the consequences for non-compliance.
- A ministry letter to the appellant dated March 12, 2014, referencing the ministry letters to the appellant of September 24, 2013, and December 10, 2013, informing him that as the ministry had not received the documents requested in these two letters he was no longer eligible to receive IA and that his file with the ministry would be closed effective March 19, 2014. The letter also informed the appellant of his right to reconsideration of this decision and the process for doing this.

After the ministry Reconsideration Decision and prior to the hearing the appellant submitted his Notice of Appeal to the Tribunal dated May 19, 2014. In this document the appellant writes that he feels that "there was a strong lack of communication and understanding."

At the hearing the appellant reported that he had hoped not to be attending the hearing on his own but had been unsuccessful in finding an advocate to assist him to present his case. He reported that he thought he had provided all of the information required by the ministry following the completion of his Employment Plan in January 2014, and was surprised when he received a letter from the ministry in March 2014, informing him he was no longer eligible for IA. The appellant reported that he had recently gone to his ministry office and tried to see a worker to discuss his concerns about the information he had been directed to provide to the ministry but was only able to talk to the receptionist. The appellant then presented oral testimony addressing each of the three outstanding documents that the ministry directed him to provide:

- The ministry pays his rent directly to his landlord so he does not receive a rent receipt.
- He does not have a telephone and therefore does not have a current phone bill.
- He did not file an income tax return for 2013, so he does not have an Income Tax Notice of Assessment however he is now in the process of getting one from Revenue Canada.

The ministry stood by the record at the hearing however they did confirm that the appellant's rent is paid directly to his landlord by the ministry and presented argument as to the reasonableness of their decision to direct the appellant to provide the three requested documents which will be addressed later in the Reasons section of this decision.

The panel found the appellant's oral testimony admissible under section 22(4) of the Employment and Assistance Act as it provided additional information from the appellant as to why he was unable to provide the requested documents to the ministry and therefore why he believes the ministry's decision to be unreasonable. The ministry did not object.

Findings of fact

- The appellant was sent a letter requesting that he provide specified information to the ministry within a specified period of time on September 24, 2013, and December 10, 2013. Both letters stipulated possible consequences for non-compliance and provided a number to call with any questions related to the file audit.

- The appellant was sent a letter March 12, 2014, stating that as he had not submitted the information requested in their two previous letters he was no longer eligible to receive IA and that his file with the ministry would be closed effective March 19, 2014.
- On April 14, 2014, the ministry received a copy of the appellant's Residential Tenancy Agreement signed by the appellant April 16, 2013, an application for a Rent Supplement showing an occupancy date of April 3, 2013, and a Tenant Confirmation form signed by the appellant April 16, 2013.
- The appellant's rent is paid directly to his landlord by the ministry.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's determination that the appellant is not eligible to receive IA was either a reasonable application of the legislation or reasonably supported by the evidence. Specifically the ministry determined that the following documents listed on the ministry "Document Checklist", apply to the appellant's situation: a current telephone bill, last year's Income Tax Notice of Assessment and a current rent receipt. As these required documents were not submitted in the time and manner specified by the ministry, the appellant was found ineligible to receive IA. In arriving at their decision the ministry relied upon the following legislation:

Information and verification

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.

Consequences of failing to provide information or verification when directed

32 (1) For the purposes of section 10 (4) [*information and verification*] of the Act, the period for which the minister may declare the family unit ineligible for assistance lasts until the applicant or recipient complies with the direction.

Position of the parties

The appellant's position is that there was a lack of good communication which resulted in a misunderstanding between him and the ministry. He did his best to provide the ministry with the information they requested and for this reason finds the ministry's determination regarding his eligibility for IA is unreasonable.

The ministry's position is that the appellant failed to provide them with his current rent receipt, phone bill, and his 2013 Income Tax Notice of Assessment, in the time and manner specified and is therefore ineligible for IA as set out under section 10 EAA and section 32 of EAR.

The appellant argued at the hearing that he was unable to provide the documents that the ministry directed him

to produce for the following reasons:

- The ministry pays his rent directly to his landlord so he does not receive a rent receipt.
- He does not have a telephone and therefore does not have a current phone bill.
- He did not file an income tax return for 2013, so he does not have an Income Tax Notice of Assessment however he is now in the process of getting one from Revenue Canada.

The appellant further argued that he had recently tried to get an appointment to see a worker to explain his reasons for non-compliance but was unable to see anyone other than a receptionist.

The ministry argued that even though the appellant's rent was paid directly by the ministry there was still no reason that he could not request a rent receipt from his landlord. The ministry added that just because they were sending a cheque directly to the appellant's landlord doesn't necessarily guarantee that he still resides there. For example, he may have moved without reporting it to the ministry. As to the ministry's direction that the appellant produce his phone bill, the ministry argued that as the appellant had provided them with a telephone number where he could be reached they therefore assumed it was his phone. As to the appellant's testimony stating that he is now in the process of obtaining his Income Tax Notice of Assessment, the ministry argued that the appellant was directed to provide this information to them in letters dated September 24th and December 10, 2013, respectively and failed to do so. The ministry also argued that the appellant was advised in both letters that failure to comply by the date specified could result in his assistance being delayed or discontinued and furthermore both letters provided a phone number for the appellant to call should he have any questions. The ministry also argued that if the appellant had contacted them to discuss the difficulties he identified at the hearing it is entirely possible that the ministry may have been able to assist him. However, the appellant did not call the ministry for assistance and as a result only the evidence provided to them by the appellant prior to reconsideration was considered. This resulted in the appellant being found in non-compliance with section 10 EAA and section 32 of EAR, and therefore he was ineligible for IA.

Panel decision

The panel finds that as the ministry acknowledged at the hearing that they were paying the appellant's rent directly to his landlord and had accepted the 2013 Tenancy Agreement and that the appellant had not reported moving, it was not reasonable for the ministry to direct him to provide them with a rent receipt for the purposes set out above in section 10 of EAA.

The panel also finds that there is conflicting evidence provided by the appellant and the ministry as to whether the appellant has a phone or not. At the hearing the appellant testified that he does not have a phone however the ministry argued that as he provided them with a phone number he could be reached at they assumed he did have a phone and for this reason they directed the appellant to provide his phone bill. The panel finds there is no way it can definitively determine which party is correct. However, as the appellant did not deny providing a phone number to the ministry or explain whose phone number he provided the panel has placed greater weight on the ministry's evidence and finds that their direction to the appellant to provide a phone bill was in keeping with the purposes set out above in section 10 of EAA.

The panel further finds that although the appellant's oral testimony at the hearing was that he is now in the process of obtaining his 2013 Income Tax Notice of Assessment, he was previously directed to provide this information to the ministry in letters dated September 24th and December 10, 2013 respectively, and failed to do so. The panel also finds that the appellant was advised in both letters that failure to comply by the date specified could result in his assistance being delayed or discontinued and that a phone number was provided should he have any questions pertaining to his file audit. For these reasons the panel finds that the ministry reasonably determined that the appellant was in non-compliance with section 10 of EAA and section 32 (1) of

EAR.

Conclusion

Having reviewed and considered all of the evidence and the relevant legislation the panel finds that the ministry's decision that the appellant was not eligible for IA was reasonably supported by the evidence and a reasonable application of the applicable legislation. Therefore the panel confirms the ministry's decision.