

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision of July 31, 2014, which found the appellant not eligible for hardship assistance according to section 44(d) of the Employment and Assistance Regulation (EAR) because her income can reasonably be expected to be used to meet the basic needs of shelter and support for her family unit.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR), sections 5, 10, 44.

PART E – Summary of Facts

The information before the ministry at reconsideration included the following:

A BCHydro bill for past due \$54.92 dated June 24, 2014.

A FortisBC bill for \$45.57 dated July 1, 2014.

A Telus bill for \$113.37 including overdue \$70.66 dated June 7, 2014.

A bill for bridge tolls for \$143.10 dated April 16, 2014.

In her request for reconsideration dated July 8, 2014 the appellant states that

- She realizes that with her employment status she is not eligible for income assistance she is applying for temporary hardship assistance.
- Her child tax credit decreased this year so her income went down over \$100 per month.
- Her monthly hydro, gas, and internet expenses are past due.
- Hydro is about to be disconnected.
- She has no money to purchase food for her children until her next pay period.
- She has monthly vehicle payments, car insurance, and a band rental payment for a school instrument.
- Her monthly cell phone bill is unpaid.
- She has been behind paying her rent for the past 2 months.
- Her 2 boys eat a lot and are both wearing adult shoes and one of them adult clothes which are more expensive.
- Her youngest son is wearing runners with the sole falling off and she cannot buy him new men's runners.
- She needs assistance with summer programs for August as she does not have any help with the children.
- The cost of gas has risen considerably and she lives over 20km out of town and drives back and forth 5 days a week, sometimes on the weekend.
- She has additional expenses which she is unable to afford: eye glasses for herself and for her boys, new tires, kids sporting activities plus equipment.
- She had to pay \$250 for the school year end field trip.
- She had to pay \$230 for computer repairs so that her children get their homework assignments and presentations done, and the computer still needs upgrading.
- She requires dental work and is only partially covered.
- She has no money to buy school supplies.
- Her youngest son requires math tutoring which she cannot afford.
- She cannot afford court costs.
- She receives no financial support for her children.

From ministry files:

- On June 30, 2014 the appellant applied for hardship assistance for herself and her 2 dependent children.
- The appellant's monthly income of \$2400 is in excess of the \$1035.58 assistance rate for her family unit.

In her Notice of Appeal dated August 8, 2014 the appellant states that she is unable to pay her rent and that she has received an eviction notice.

With her Notice of Appeal the appellant provided a Notice to End Tenancy, dated August 7, 2014 stating that she has failed to pay rent in the amount of \$875 that was due on October 1, 2013. The notice states further that the tenant may be evicted if she does not respond to this notice, that she has 5 days to pay the rent, and the landlord is giving her 10 days notice to move out.

At the hearing the appellant stated that her financial problems started 2 years ago. She has fallen into a hole and can't get out. After her separation she was faced with high family debts and had to take out a personal loan. One of her sons is on disability and she constantly has to drive him to appointments, including twice a week to another city and sometimes to another city which takes around 3 hours by car.

She still lives at the same address and has until the end of the month to pay her rent, otherwise she will be evicted. She has unsuccessfully attempted to get her rent subsidized.

Pursuant to section 22(4) of the Employment and Assistance Act, the panel admits the Notice to End Tenancy and the appellant's oral testimony as being in support of the information that was before the ministry at the time of reconsideration – this new information provides additional details about the appellant's financial situation.

The ministry relied on its reconsideration decision which noted that due to the reduction of family bonus the appellant's Income Assistance rate went up to \$1385.65 and added the following information: As "basic needs" the ministry considers food, shelter and essential medical services; the ministry does not take debt load into consideration. Medical transportation may be an option. The ministry had no objection to admit the Notice to End Tenancy as evidence and stated that this new evidence would not have changed the ministry's decision.

PART F – Reasons for Panel Decision

The issue under appeal in this case is whether the ministry's decision that the appellant was not eligible for hardship assistance under section 44(d) of the EAR because her income can reasonably be expected to be used to meet the basic needs of shelter and support for her family unit, was a reasonable application of the legislation or reasonably supported by the evidence.

The following legislation applies to this appeal:

Hardship assistance – eligibility and limitations

...

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.

The appellant argues that she is experiencing hardship because she cannot buy food for her family and shoes for her son, and she also had additional expenses: she had to pay for computer repairs and for a field trip, her child tax credit decreased, the gas price increased and her boys are now wearing adult clothing which are more expensive than children's sizes. She is unable to get caught up with her bills – she has monthly vehicle payments, car insurance, and instrument rental payments. She is 2 months behind rent and is also behind paying for hydro, gas, internet, and cell phone. She also needs assistance with summer programs for her children, math tutoring for her son, dental work, eye glasses, new tires, sporting expenses and computer upgrading. She can't rely on family members for financial assistance.

The ministry argues that although the appellant lists multiple expenses and some unexpected expenses, the appellant's income can reasonably be expected to be used to meet her family unit's basic needs. With her \$2400 monthly earnings and monthly rent payments of \$875 the appellant has sufficient resources to meet the basic needs of shelter and support for her family unit. The ministry notes that it does not provide assistance with computers, vehicles, extra-curricular activities, tv, and internet, and suggests that the appellant contact resources in her area such as food banks, soup kitchens, clothing banks, and the Child Care Subsidy Program.

Panel Decision

The ministry may provide hardship assistance under section 44 (d) of the EAR to an appellant whose income exceeds the prescribed limit for income assistance, if the appellant's income could not, in the minister's opinion, reasonably be expected to be used to meet her family unit's basic needs. The panel finds that with a \$2400 monthly income, which the appellant does not dispute, and a rent of \$875, there is not sufficient evidence that her monthly income cannot meet her basic needs. The panel finds further that it is reasonable to expect that the appellant uses her monthly income first to pay for food and shelter, even though she may have to default on her loan.

The panel finds, therefore, that the ministry was reasonable in concluding that pursuant to section 44 (d) of the EAR the appellant's income can reasonably be expected to be used to meet her family unit's basic needs and that the appellant was therefore not eligible for hardship assistance. The panel finds the ministry's reconsideration decision was reasonably supported by the evidence and was a reasonable application of the applicable regulation in the circumstances of the appellant. The ministry's reconsideration decision is confirmed.