



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of August 8, 2014, which denied the appellant’s request for income assistance. The ministry held that the appellant was not eligible for income assistance for her lifetime due to a conviction of fraud under the Criminal Code of Canada pursuant to Section 15(1) and (5) of the Employment and Assistance Act.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) – Section 15

PART E – Summary of Facts

The information that was before the ministry at reconsideration consisted of:

- A Restitution Order dated February 5, 2008 which indicated the amount of restitution to be paid to the ministry by the appellant was \$11,310;
- A Conditional Sentence Order with Conditions dated February 5, 2008 which noted the appellant would make restitution to the ministry at a rate of \$150 per month commencing February 15, 2008;
- A Notice of Victim Surcharge dated February 5, 2008 which indicated the appellant must pay \$100;
- An Investigation Registration and Conclusion report by the ministry dated February 11, 2008 which noted the appellant was convicted of fraud after entering a guilty plea;
- A letter from the ministry to the appellant dated February 11, 2008 which informed the appellant that as a result of her conviction under the Criminal Code in relation to obtaining money under the EAA, she is now subject to the applicable sanction which according to her family unit is for her lifetime;
- An Application for Income Assistance (Part 2) dated July 18, 2014;
- A Request for Reconsideration dated July 23, 2014; and
- A letter from the appellant to the ministry dated July 24, 2014 which indicated that her conviction of fraud was a onetime offence. She further describes the personal events that took place in her life prior to the conviction. The appellant states that with time and the economy her health issues have been difficult and she has no family and no one to ask for help. The appellant states that she plead guilty because she wanted to get on with her life, unknowing how serious this outcome would affect her life forever – never to be bondable. She indicates that she lives her life honestly and is in serious need of help. She is trying to pay back the ministry and maintain some sort of life. She states that she needs medical help and is desperate to get out from where she currently resides - a storage room in a garage without windows and air. She adds that she is physically sick, cannot afford to purchase the medication that she needs to help her breathe and has Post Traumatic Stress Disorder. The appellant requests help from the ministry at this time.

Oral Testimony

The appellant testified that she was on probation for 2 years, released on good behavior and has found it difficult to keep a job. She indicated that she had a serious fall at work in 1998 in another province and has never received any money from WCB and her claim has never been settled. She stated that she doesn't have medical insurance and needs health care. In response to a question by the panel, the appellant stated that her last payment to the ministry was 2 years ago and her debt is down to \$6000. In response to a question by the ministry about whether she had applied for hardship assistance, the appellant stated that she thought that the appeal included that process as she had written her need for help in her request for reconsideration. In addition, the appellant stated that she had paid \$35 to get a doctor's letter to present as evidence at the hearing. The appellant further stated that she tried to get an advocate without success.

The appellant's friend testified that he has known her for 5 years and that her body is broken, she suffers from PTSD and is being treated badly by her landlady. He confirmed that she lives in a

storage space in a garage without windows or free-flowing air. He stated that she needs medical treatment.

The ministry stood by the reconsideration decision. The ministry representative explained that the lifetime ban was due to the fact that the appellant had been charged under the Criminal Code and that this was a process usually reserved for people who committed fraud repeatedly. The ministry representative further stated that moving forward; the appellant could apply for hardship assistance.

Findings of Fact

The appellant is a single person and is not currently in receipt of assistance.

On February 5, 2008, the appellant was convicted of an offense of fraud of over \$5,000 contrary to Section 380(1)(a) of the Criminal Code in relation to obtaining assistance under the EAA.

PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the ministry's reconsideration decision of August 8, 2014, which held that the appellant was not eligible for income assistance for her lifetime due to a conviction of fraud under the Criminal Code of Canada pursuant to Section 15(1) and (5) of the Employment and Assistance Act.

Relevant Legislation

Consequences for conviction or judgment in relation to Act

15 (1) A family unit that includes a person who is convicted of an offence under the Criminal Code in relation to obtaining money, under this Act or the Employment and Assistance for Persons with Disabilities Act, by fraud or false or misleading representation is subject to the consequence described in subsection (5) for a family unit that matches the person's family unit for the lifetime of the person, beginning with the first calendar month following the date of the conviction.

(2) A family unit that includes a person who is convicted of an offence under this Act or the Employment and Assistance for Persons with Disabilities Act is subject to the consequence described in subsection (5) for a family unit that matches the person's family unit, beginning with the first calendar month following the date of conviction,

(a) after a first conviction, for a period of 12 consecutive months,

(b) after a second conviction, for a period of 24 consecutive months, and

(c) after a third conviction, for the lifetime of the person.

(3) If(a) [Repealed 2006-22-3.]

(b) a court has given judgment in favour of the government in an action for debt against a person for obtaining income assistance, hardship assistance or a supplement under this Act, or disability assistance, hardship assistance or a supplement under the Employment and Assistance for Persons with Disabilities Act, for which he or she was not eligible, unless the income assistance, hardship assistance, disability assistance or supplement was provided to or for the person in error, the minister may declare that the person's family unit is subject to the consequence described in subsection (5) for a family unit that matches the person's family unit for the prescribed period, beginning with the first calendar month following the date of the judgment.

(4) The periods prescribed for the purpose of subsection (3) may vary with the number of applicable judgments.

(5) If a family unit includes

(a) only persons described in subsection (1) or (2), or subsection (3) if the minister has made a declaration under that subsection, the family unit is not eligible for income assistance for the applicable period, and

(b) one or more persons described in subsection (1) or (2), or subsection (3) if the minister has made a declaration under that subsection, and at least one other person, the amount of income assistance, hardship assistance or a supplement provided to or for the family unit must be reduced by the prescribed amount for the applicable period.

The appellant argued that her conviction was for a first offence and referred to the legislation under Section 15(2)(a) where it indicated that after a first conviction, for a period of 12 consecutive months, the appellant would not be eligible for assistance. The appellant further argued that she never received the ministry's letter dated February 11, 2008 informing her of the lifetime sanction until she received the appeal record. The appellant stated that she is in need of health treatment, a better place to live and has no one to ask for help.

The ministry's position is that the appellant was convicted in February 2008 of an offense of fraud over \$5,000 contrary to Section 380(1)(a) of the Criminal Code in relation to obtaining assistance under the EAA and the lifetime sanction of ineligibility began March 1, 2008. The ministry noted that the minister may provide hardship assistance for family units with criminal code convictions who otherwise experience undue hardship and whose physical health will be in imminent danger. The ministry concluded that a decision regarding eligibility for hardship assistance was not previously made and denied.

Panel's Findings

The panel finds that the appellant was convicted on February 5, 2008 of one count of fraud over \$5,000 in relation to obtaining money under the Employment and Assistance Act, under section 380(1)(a) of the Criminal Code of Canada. The panel also finds that the ministry reasonably determined that pursuant to section 15(1) of the EAA, the appellant is subject to a lifetime consequence which began one month after the appellant's conviction on March 1, 2008 and pursuant to (5) the lifetime consequence for a single person who has no dependants is ineligibility for income assistance.

Having reviewed and considered all of the evidence and the relevant legislation, the panel finds that the ministry's decision that the appellant is not eligible for income assistance was reasonably supported by the evidence and therefore confirms the ministry's decision.