

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “Ministry”) reconsideration decision dated September 5, 2014, which denied the appellant Income Assistance (IA) because she failed to provide information and documentation as directed by the Ministry to determine her eligibility for IA pursuant to section 10 of the *Employment and Assistance Act* (“EAA”) and that she continues to be ineligible, pursuant to section 32 of the *Employment and Assistance Regulation* (“EAR”), as she has not complied with the direction. In particular, the appellant did not provide ownership papers for a second vehicle that was insured in her name, and an explanation of bank deposits for April 3 and April 14 of 2014 for the respective amounts of \$150 and \$200.

PART D – Relevant Legislation

Employment and Assistance Act section 10
Employment and Assistance Regulation section 32

PART E – Summary of Facts

* The ministry arrived to the hearing 20 minutes after the hearing began, at the commencement of the appellant providing her evidence.*

The information before the ministry at the time of reconsideration included the following:

1. 4-page insurance and vehicle registration summary dated September 5, 2014, that shows two vehicles registered in the appellant's name;
2. A hand-written note dated July 2014 that lists the appellant's monthly income and expenses;
3. 4-page insurance and vehicle registration for one vehicle;
4. 5-page summary of the appellant's bank account from April 2014 to July 2014;
5. 1-page blank bank profile request form;
6. A Shelter Information form;

Letters dated June 4, June 26 and July 10, 2014 from the ministry to the appellant which state in part that the appellant's file has been selected for review and that specified information is required in order to determine or audit eligibility for assistance; and

7. A Request for Reconsideration (RFR) signed and dated August 7, 2014 which states that the appellant has provided the following documentation;
 - Bank statements from April 2014 – June 2014;
 - Monthly income and expenses; and
 - Ownership for a second vehicle that is insured in her name.

The appellant also explains that she was unable to provide information regarding a phone bill, second vehicle registration, child maintenance (CM) and an explanation of deposits made to her bank account, for the following reasons:

- Phone bill: she does not have a phone in her name. The phone she uses is in her daughter's name, who also pays the bill;
- Second vehicle registration: she transferred the vehicle out of her name a long time ago and does not have any documentation pertaining to the ownership of the vehicle;
- CM: the appellant declares that she has consistently received \$400 per month for the past 9 years, even though she has not, because she cannot list when she did and did not receive CM over the past 9 years; and
- Deposits: the deposit information the Ministry wants is for an account which became dormant account in 2013. The bank requires a significant payment to retrieve information from a dormant account. The appellant has told this to the Ministry but it has not provided her with the funds to pay the bank to retrieve the information.

A Notice of Appeal, signed and dated September 19, 2014 by the appellant, which states that the Ministry unreasonably applied Section 10 of the EAA and:

- That she has made efforts to provide the Ministry with the requested information but is limited by her disabilities and there are extenuating circumstances surrounding the phone bill and vehicle registration request;
- She thought the second vehicle was in someone else's name and only recently found out that it was still registered in her name. After some effort she was able to have that officially transferred to the intended owner; and
- She was unable to get a copy of the phone bill because it is in her daughter's name. Recently her daughter had a baby and therefore it took a while to get a copy of a phone bill from her.

On September 23, 2014 the appellant submitted the following information:

- A Gift of a Vehicle form dated and signed July 29, 2014 showing a transfer of the vehicle that the ministry requested information about from the appellant to her ex-spouse; and
- A phone bill that is in the appellant's daughter's name dated September 7, 2014;

At the hearing the appellant stated the following:

- she only received her appeal package on October 11, 2014 as there are always delays in getting her mail at the multi-suite home she lives in;
- she did not have enough time to gather the requested information because she did not receive the initial request for information that was mailed to her on June 4, 2014. She only received the June 26 and July 10, 2014 letters from the ministry and both were received in July;
- she tried to comply but was limited due to her depression and anxiety;
- she had trouble getting a phone bill because it's in her daughter's name and she had just gotten married and had a baby;
- she had a very difficult and stressful time getting the vehicle ownership papers from her ex-spouse. She insured the vehicle for him because he could not get insurance and thought that once the insurance ran out that it would no longer be in her name. In August of 2014 she was able to have her ex-spouse take ownership of the vehicle;
- she did not contact the ministry after the June 26, 2014 letter was sent to her because she did not receive it until July 2014 due to mail problems at her residence;
- the April 3 and April 14, 2014 deposits in her bank were monetary gifts from her father for groceries that she did not report to the ministry on her monthly stub;
- she brought the requested information in person to her district office but did not contact the investigating officer (IO);
- she did not declare the second vehicle on her monthly stubs, does not read the stubs rather simply signs them and did know she had to declare her CM;
- her ex-spouse gives her cash for CM but she does not deposit that money in her bank account as she uses it to pay her rent;
- she does not have court documentation for the CM and she receives \$400 every month but at inconsistent times of the month and sometimes in small increments.

At the hearing the ministry relied on its reconsideration decision and added:

- the appellant has a history of 10-12 years of a file with the ministry and past non-compliance with the ministry's request for information and has been denied assistance in the past for this reason therefore she was aware of the consequences of non-compliance with the ministry's request;
- she did not request an extension to gather the requested information or contact the IO;
- the appellant still has the opportunity to receive assistance as long as she complies with the ministry's request;
- that the panel not look beyond the legislation, specifically section 10 of the EAA as the ministry has complied with the legislation; and
- the appellant met the requirement to supply information regarding the phone bill prior to the reconsideration decision, the ministry requires written confirmation regarding the source of the April 3 and April 14, 2014 deposits of \$150 and \$200 respectively and the ministry requires the vehicle registration papers to confirm ownership has changed for the second vehicle.

Admissibility of New Information

The ministry and the appellant did not object to the admission of new information.

The panel found that the information presented by the appellant (the Gift of Vehicle form, phone bill and her statement that the April 3 and April 14, 2014 deposits of \$150 and \$200 respectively were gifts from her father) was in support of the information before the ministry at the time of reconsideration. Accordingly, the panel did admit this new information as being in support of information and records that were before the ministry at the time of the reconsideration, in accordance with s. 22(4) of the *Employment and Assistance Act*. The panel found that the information presented by the ministry (the history of the appellant's non-compliance) was not raised at reconsideration and is, therefore, not in support of the information before the ministry at the time of reconsideration. Accordingly, the panel did not admit this new information as being in support of information and records that were before the ministry at the time of the reconsideration, in accordance with s. 22(4) of the *Employment and Assistance Act*.

PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry's decision to deny the appellant IA because of a failure to provide the Ministry with information and documentation requested and required to determine eligibility for IA was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. In particular, the appellant did not provide ownership papers for a second vehicle that was insured in her name, and an explanation of bank deposits for April 3 and April 14 of 2014 for the respective amounts of \$150 and \$200.

The relevant legislation is as follows:

Information and verification

Employment and Assistance Act

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

Employment and Assistance Regulation

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.

(2) For the purposes of section 10 (5) [*information and verification*] of the Act,

(a) the amount by which the minister may reduce the income assistance or hardship assistance of the dependent youth's family unit is \$100 for each calendar month, and

(b) the period for which the minister may reduce the income assistance or hardship assistance of the dependent youth's family unit lasts until the dependent youth complies with the direction.

The Appellant's Position:

The appellant's position is that she suffers from depression and anxiety and therefore had difficulty in gathering all of the information the ministry requested to assess her eligibility within the time frame she was given. Also, she has problems receiving her mail at her residence and did not receive the initial request of information letter dated June 4, 2014. After much struggle she was able to obtain documentation to demonstrate she no longer owns the second vehicle, does not have a phone in her name or pay for it, and received \$150 on April 3, 2014 and \$200 on April 14, 2014 from her father for groceries.

The Ministry's Position:

The ministry's position is that the appellant did not comply with the request to provide all of the information and documentation so that her eligibility for IA could be assessed, in the time she was given. The ministry has followed the law by staying within the limits of section 10 of the EAA. The appellant did not request extra time to meet this need and did not contact the IO when she received the letters from the ministry requesting information regarding her eligibility.

The Panel's Decision:

In the reconsideration decision, the ministry found the appellant ineligible for IA for failure to provide ownership papers for the second vehicle and an explanation for 2 bank deposits for \$150 on April 3, 2014 and \$200 on April 14, 2014. The legislation states that in order to audit eligibility for IA the

ministry can direct a recipient to supply information within a specified time and manner (section 10 of the EAA) and that the recipient will remain ineligible until such time that the information is provided (section 32 of the EAR).

The Second Vehicle

The appellant argues that she insured the vehicle for her ex-spouse. Once the insurance period ended she assumed the vehicle was back in her ex-spouse's name. She has now given evidence in the form of signed transfer papers and her oral testimony that the vehicle was transferred to show the vehicle was gifted to her ex-spouse. The ministry argues that information regarding the ownership of the second vehicle was not provided at the time of reconsideration and that the gift of a vehicle form does not establish who the vehicle is registered to. The panel notes that the reconsideration decision specifically states that the appellant is required to "provide some evidence or documentation to counter the evidence that indicates that [she is] still the registered owner ..." and specifically asks for "registration documents or confirmation" that the vehicle is no longer in the appellant's name. The panel finds that the gift of vehicle form, which is not stamped by ICBC nor accompanied by transfer papers, and the appellant's oral testimony at the hearing, does not specifically confirm she is not still the owner of the second vehicle or counter the evidence the ministry has showing that she is the registered owner of the second vehicle. As a result, the panel finds that the ministry reasonably determined that the appellant failed to supply information regarding the ownership of the second vehicle as directed by the ministry pursuant to Section 10 of the EAA within the time specified by the ministry.

Bank Deposits

The appellant argues that the April 3, 2014 deposit of \$150 and the April 14, 2014 deposit of \$200 were monetary gifts from her father for groceries. The ministry argues that the appellant did not previously provide any explanation for the 2 deposits in question and that her testimony at the hearing that her father gifted her the money must be confirmed in writing. The panel notes that the reconsideration decision states that the ministry "must be able to determine the source of this income..." and the July 10, 2014 letter from the ministry required an explanation for deposits in the appellant's bank account "with confirmation of the source." The panel finds that although the appellant has given an explanation at the hearing for the 2 bank deposits, which was submitted after the reconsideration decision she has not provided evidence that allows the ministry to determine the source of the income. As a result, the panel finds that the ministry reasonably determined that the appellant failed to supply information regarding the deposit of \$150 on April 3, 2014 and \$200 on April 14, 2014 as directed by the ministry pursuant to Section 10 of the EAA within the time specified by the ministry.

Under Section 32 of the EAR, the period for which the ministry may declare the family unit ineligible for assistance lasts until the recipient complies with the ministry's direction. The panel finds that the ministry acknowledged that all of the requested information had been provided by the appellant at the time of the decision with the exception of evidence to show she is not the registered owner of the second vehicle and an explanation that allows the ministry to determine the source of the income for two deposits made to her bank account. The panel finds that while the appellant provided information at the hearing regarding ownership of the second vehicle and an explanation for the deposits made to her bank account on April 3 and April 14, 2014, she has not provided any evidence that can substantiate her explanations. The panel finds that the ministry reasonably determined that the appellant is not eligible for income assistance, pursuant to Section 32 of the EAR, until she complies

with the direction to provide this information.

Conclusion:

The panel finds that the ministry reasonably concluded that the evidence establishes that the appellant did not fully comply with the request for information and documentation to audit her eligibility for IA as required by section 10 of the EAA. The panel therefore finds that the ministry's decision to determine the appellant is ineligible for IA due to a failure to provide information requested by the ministry was a reasonable application of the legislation and supported by the evidence. The panel confirms the ministry's reconsideration decision.