

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “Ministry”) October 22, 2014 reconsideration decision in which the Ministry determined, pursuant to sections 10 and 28 of the Employment and Assistance Regulation, that the Appellant was not eligible for income assistance in September 2014 because his earned income in July 2014 exceeded the total monthly income assistance he was eligible for.

PART D – Relevant Legislation

Employment and Assistance Regulation (“EAR”) Sections 1, 10, 28, Schedule A Sections 2 and 4, and Schedule B Section 3.

PART E – Summary of Facts

For its reconsideration decision, the Ministry had the following information:

1. Information from its records that the Appellant:

- Was receiving income assistance as a single person from December 2013.
- Was eligible for monthly support allowance of \$235 and monthly shelter allowance of \$375 for a total of \$610 in income assistance.

2. Pay stubs from a company showing net income paid to the Appellant as follows:

- On June 28, 2014 the amount of \$269.59;
- On July 12, 2014 the amount of \$635.98 and on July 26, 2014 the amount of \$771.05 for a total of \$1407.03.
- On August 20, 2014 the amount of \$116.08.

3. Appellant's request for reconsideration with his statement dated October 1, 2014 describing his situation as follows:

- Home is being repossessed; he must relocate before it is repossessed or forfeit his possessions as he has no place to store them.
- Has been living without power since April and no hot water since March because the hot water tank failed.
- Has been cooking with a barbeque and heating water for washing on the barbeque.
- Has limited finances available for food, cigarettes, etc.
- Is currently working part time at a seasonal job and anticipates that the work will be slowing down soon.
- Is unable to afford a security deposit of \$250 plus one month's rent of \$500 for an apartment.
- Is in desperate need as he will be losing everything.

At the hearing, the Appellant described the same financial problems as he set out in his request for reconsideration. He added that the apartment he found is the cheapest one in the town where he lives. He has no electricity so he uses his wood fireplace to stay warm. The Appellant also said that he has to buy food that won't spoil because he has no electricity. The Appellant explained that the money he earned in July was spent on his living expenses, plus on an old car and insurance because he needs a car to get to work. The work he has is only part time and this month he worked only about 12 hours. He cannot survive on that income. The Appellant also described how he looks for work almost every day. He said that he just needs some help to get the apartment that he found.

Pursuant to section 22(4) of the *Employment and Assistance Act*, the Panel admits the Appellant's hearing testimony because it substantiates and therefore is in support of the evidence the Ministry had at reconsideration.

The Ministry reviewed and reaffirmed its reconsideration decision.

The Panel makes the following findings of fact, which are not in dispute:

1. The Appellant was eligible for monthly income assistance in the amount of \$610.
2. In July 2014, the Appellant received \$1407.03 net income from employment.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry reasonably determined that, pursuant to sections 10 and 28 of the EAR, the Appellant was not eligible for income assistance in September 2014 because his earned income in July 2014 exceeded the total monthly income assistance he was eligible for.

Applicable Legislation

The following sections of the EAR apply to this appeal.

Definitions

1(1) in this regulation:

"earned income" means (a) any money or value received in exchange for work or the provision of a service.

Limits on Income

10 (2) A family unit is not eligible for income assistance if the net income of the family unit determined under Schedule B equals or exceeds the amount of income assistance determined under Schedule A for a family unit matching that family unit.

Amount of Income Assistance

28 Income assistance may be provided to or for a family unit, for a calendar month, in an amount that is not more than (a) the amount determined under Schedule A, minus (b) the family unit's net income determined under Schedule B.

Schedule A Income Assistance Rates

Monthly Support Allowance

2 Sole recipient and no dependent children: support allowance - \$235.

Monthly Shelter Allowance

4 Family Unit of 1 person: maximum shelter allowance - \$375.

Schedule B Net Income Calculation

Deductions from Earned Income

2 The only deductions permitted from earned income are the following:

(a) any amount deducted at source for (i) income tax, (ii) employment insurance, (iii) medical insurance (iv) Canada Pension Plan, (v) superannuation, (vi) company pension plan, and (vii) union dues.

Exemption – earned income

3 (1) Subject to subsection (2), the amount of earned income calculated under subsection (6) is exempt for a family unit.

(3) Unless otherwise provided under subsection (4) or (5), the amount of earned income calculated under subsection (6)(a) is exempt for a family unit that qualifies under this section.

(6) The exempt amount for a family unit that qualifies under this section is calculated as follows:

(a) in the case of a family unit to which subsection (3) applies, the exempt amount is calculated as the lesser of: (i) \$200 and (ii) the family unit's total earned income in the calendar month of calculation.

The Parties' Positions

The Appellant did not dispute that in July 2014 he received \$1407.03 as net income from employment. He submitted that because his house is being repossessed he needs to rent an

apartment. Because of his financial problems, he just needs some help to pay the first month's rent and the security deposit.

The Ministry's position is that the Appellant's net employment income in July 2014, which was to be reported in August 2014, exceeded the amount of income assistance that the Appellant was eligible for in September 2014, the first month of income assistance that those earnings would affect.

The Panel's Findings and Conclusion

The Panel recognizes that the Appellant is facing financial difficulties. However, there is no dispute that in July 2014 the Appellant received \$1407.03 in net income from employment. There is also no dispute that the Appellant was eligible for \$610 a month in income assistance. Therefore Panel finds that, even after the \$200 exemption provided for in EAR Schedule B section 3 is applied, the Ministry reasonably concluded that the Appellant's net employment income exceeded the maximum monthly amount of income assistance he was eligible for in September 2014. Thus, the Ministry's reconsideration decision was reasonably supported by the evidence and was a reasonable application of the regulations. The Panel confirms that reconsideration decision.