

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “Ministry”) reconsideration decision dated December 8, 2014, which denied the appellant Income Assistance (IA) because he failed to provide information and documentation as directed by the Ministry to determine his eligibility for IA pursuant to section 10 of the *Employment and Assistance Act* (“EAA”) and that he continues to be ineligible, pursuant to section 32 of the *Employment and Assistance Regulation* (“EAR”), as he has not complied with the direction. In particular, the appellant failed to provide an account profile and bank statement for any accounts with a specified bank for the period of June 2014 to November 2014.

PART D – Relevant Legislation

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

PART E – Summary of Facts

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

1. Request for Reconsideration, signed and dated November 27, 2014, which states that:
 - An inheritance of \$11 000 was received on June 2, 2014 and \$8 000 of the inheritance was spent on college tuition and \$3 000 on the purchase of a family vehicle;
 - All bank records were dropped off at a local ministry office and they show the withdrawal of rent monies from the bank every month;
 - An Equifax search revealed an account with a specified bank and a statement from that institution is included in the documents provided; and
 - Funds have been received from church friends to cover the costs of bills and rent.
2. Letter dated November 10, 2014 from a credit union stating that the appellant's account is overdrawn;
3. Transaction history dated November 27, 2014 from the bank in question showing the history on the account from August 29, 2014 to October 31, 2014;
4. Transfer of vehicle form for a year 2000 minivan with a date of sale of June 14, 2014;
5. 2 partially illegible receipts from a local community college one for \$6000 and a second for \$2000;
6. Letter signed dated October 27, 2014 from the executor of the appellant's grandfather's will, which states that the appellant received \$11 000 on June 2nd and that he has received all monies entitled to him;
7. Profile from a credit union dated November 3, 2014;
8. Account statement from a credit union listing the transaction on the account from July 17, 2014 to November 3, 2014. It also shows the monthly withdrawal of \$590 for rent;
9. Account statement from a credit union listing the transaction on the account from January 18, 2014 to February 7, 2014;
10. 4-page acceptance letter dated July 23, 2014 from a local community college shows fees totally \$15 846, with a payment schedule of \$8 000 on August 5 and \$1 961.50 on November 28 of 2014, \$1 961.50 on February 13, \$1 961.50 on April 17 and \$1 961.50 on June 19, 2015;
11. Equifax report dated November 5, 2014;
12. ICBC driver's abstract for the appellant and his spouse;
13. Account statement from a second credit union showing transactions from September 2, 2014 to November 17, 2014. It also shows deposits of \$1 030 which the appellant has described as either 'gifts' or 'family help' and a date stamp of November 24, 2014;
14. Account summary from the first credit union showing transactions from August 2, 2014 to November 12, 2014; and
15. Application for income assistance signed and dated July 31, 2014.

A Notice of Appeal, signed and dated December 13, 2014, which states:

- The missing bank statements were submitted and included in the original appeal;
- The bank statement was the only information he could get on short notice and thought that it would be sufficient. There will be a charge of \$16.50 and wait of 7-10 business days to get more information from the bank. The ministry has been granted access to the account so it can verify information;
- The account at the second credit union was opened on August 27, 2014 and therefore there are no statements available for June 2014 to August 2014;
- The statements from the first credit union show the regular withdrawal of rent which was

reduced from \$790 to \$590 as he was unable to work after hospitalization.

At the hearing the appellant provided an account statement and account profile from the bank in question and added that:

- To the best of his knowledge he has complied with the ministry's request;
- The request for information was not in writing until he received a letter, dated November 17, 2014, denying his IA. Therefore he was confused as to what information the ministry wanted;
- The second credit union is linked to the bank and he assumed the ministry was looking for information from the credit union not the bank;
- When he submitted the statements from the financial institutions prior to November 5, 2014 he was not told at that time that he needed additional information;
- He thought the bank transaction history would be sufficient for the ministry and a detailed account statement would have cost him money that he did not have at that time; and
- On December 16, 2014 he hand-delivered the account profile and account statements to the ministry.

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

- It is not the ministry's policy to make requests for information in writing. A verbal request, which was made on November 5, 2014, is sufficient.

Admissibility of New Information

The ministry did object to the admission of new information and stated that the new information was not before the reconsideration branch at the time of the reconsideration decision, and that it may have come to a different decision if the new information was available. Since the hearing is a review of the reconsideration decision, any information considered cannot be new information but only that which was before the ministry at the time of the decision.

The panel found that the new information presented by the appellant (the account profile and account statement dated June 16, 2014 to December 1, 2014) was not in support of the information before the ministry at the time of reconsideration. Specifically, the new information provides particular details that were not available to the ministry at the time of reconsideration and the absence of these details was the basis of the ministry's decision. 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 section 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, did the ministry reasonably determine that the appellant did not provide an account profile and bank statement for any accounts with a specified bank for the period of June 2014 to November 2014?

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 argues that the ministry did not provide written notification of the information it required of him. Therefore, he was confused as to which bank information it wanted because the second credit union he deals with is affiliated with the bank. He further argues that he felt he had satisfied the ministry's request by providing a bank transaction history and was not told until the reconsideration decision that this information was insufficient. Lastly, he argues that in order to get the requested bank information, he had to pay a fee, for which he did not have money at the time.

The Ministry's Position:

Under section 10 of the EAA the ministry may direct a recipient of IA to provide information to determine eligibility for assistance. If a recipient does not comply with a direction, the ministry may declare the recipient's family unit ineligible for assistance until the information or verification is provided, under section 32 of the EAR. The ministry argues that on November 5, 2014, it advised the appellant to submit an account profile and account information from a specified bank for the period of June 2014 to August 2014, and that this information was required within 5 business days or he would cease to be eligible for IA. On November 17, 2014, the ministry had not received the above requested information therefore it declared the appellant ineligible for IA until such information is submitted.

The Panel Decision:

The legislation states that in order to determine or 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 appellant argues that the ministry did not make its request in writing which led to confusion regarding which information was necessary to meet the request. The ministry argues that it is not its policy to make requests in writing. The panel finds that the legislation states that the ministry can direct a recipient to supply information within a specified time and manner but it does not address the means by which the request is administered. Furthermore, the manner in which the request was made is not an issue for the panel's consideration as its jurisdiction lies within the matters of appeal and not with ministerial policy or procedure.

The appellant argues that he provided a transaction history and that he thought that this would be sufficient. The ministry argues that the transaction history submitted did not provide the information requested nor was it for the period specified. Additionally, the transaction history does not show the

appellant as the account holder. The panel finds that ministry records show that on November 5, 2014 the ministry asked the appellant for a bank profile, account statement and bank information for all other members of his family, and that pursuant to section 10 of the EAA, the appellant must comply with the request. The ministry's records also show that the appellant was informed about the deadline for providing the above noted information and the consequences for not providing the information. The panel notes that since the second credit union is affiliated with the bank in question, the appellant was confused as to which information to provide. However the panel also notes that banking information for the second credit union, the one that is associated with the bank, was only provided after the appellant was denied his IA. Thus even if he was confused, he did not comply with the ministry's request within the specified time and manner. The panel further notes that it is the appellant's responsibility to seek answers to any confusion he may have regarding the ministry's request. The panel finds that the transaction history provided by the appellant is not equivalent to a bank profile, which would verify the account holder's name, or account statements from June 2014 to November 2014, both of which were requested by the ministry on November 5, 2014. The panel finds that the evidence demonstrates that the ministry reasonably concluded that, at the time of the reconsideration decision, the appellant did not provide information 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 appellant argues that he thought he complied with the ministry's directive by providing the transaction history, and has now complied by providing the bank profile and account statement at the hearing. The panel finds that the ministry acknowledged that all of the requested information had been provided by the appellant at the time of the reconsideration decision with the exception of a bank profile and account statement for a specified bank. The panel finds that while the appellant provided this information at the hearing, the information cannot be considered by the panel for reasons already discussed. The panel finds that, at the time of the reconsideration, the ministry reasonably determined that the appellant is not eligible for income assistance, pursuant to Section 32 of the EAR, until he 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 determine or audit his eligibility for IA as required by section 10 of the EAA. The panel therefore finds that the ministry's decision to declare the appellant 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.

PART G – Order

THE PANEL DECISION IS UNANIMOUS BY MAJORITY (Check one)

THE PANEL CONFIRMS THE MINISTRY DECISION RESCINDS THE MINISTRY DECISION

If the ministry decision is rescinded, is the panel decision referred back to the Minister for a decision as to amount? YES NO

LEGISLATIVE AUTHORITY FOR THE DECISION:

Employment and Assistance Act

Section 24(1)(a) and/or Section 24(1)(b)

and

Section 24(2)(a) or Section 24(2)(b)

PART H – Signatures

SIGNATURE OF CHAIR	DATE (YYYY MMM DDD)
	2014/01/08
PRINT NAME	
Neena Keram	

SIGNATURE OF MEMBER	DATE (YYYY MMM DDD)
	2014/01/08
PRINT NAME	
David Handelman	
SIGNATURE OF MEMBER	DATE (YYYY MMM DDD)
	2014/01/08
PRINT NAME	
Fazal Bhimji	