

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (Ministry) dated March 2, 2015, in which the Ministry determined that the Appellant is not eligible for further disability assistance due to failure to provide information requested pursuant to Section 10 of the *Employment and Assistance for Persons with Disabilities Act* (EAPWDA) required to determine eligibility. Pursuant Section 10(4) of the EAPWDA as the Appellant failed to comply with a direction under Section 10, he was ineligible for disability assistance for the prescribed period, which is until the Appellant complies per Section 28 of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR).

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA) Section 10

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Section 28

PART E – Summary of Facts

The Ministry was not in attendance at the hearing. After confirming that the Ministry was notified, the hearing proceeded under Section 86(b) of the *Employment and Assistance Regulation*.

Information before the Ministry at Reconsideration included:

- A copy of a loan agreement in the Appellant's name dated 29 October 2014 in the amount of \$334.00
- A copy of a loan agreement in the Appellant's name dated 19 December 2014 in the amount of \$334.00, with a changed due date.
- A copy of a loan agreement in the Appellant's name dated 19 December 2014 in the amount of \$334.00
- A copy of a loan agreement in the Appellant's name dated [blank] January 2015 in the amount of \$340.00
- A copy of a letter from the Appellant's landlord, dated January 12, 2015, stating that payment of his monthly rent is by cheque from a society.
- A copy of an account activity report from the appellant's bank for the period December 30, 2014 to January 26, 2015.
- A copy of a Notice of Deposit in the Appellant's name from the Ministry dated November 19, 2014 in the amount of \$688.70.
- A copy of a letter from the Appellant's advocate to the Ministry dated February 16, 2015.
- Copies of Deposit Account History Financial Enquiry reports in the Appellant's name for the period September 21, 2011 to October 31, 2014.
- A Personal Assessment form from the Appellant's bank, dated November 24, 2014, showing a net worth of \$79.92.
- Copies of a T5007 Statement of Benefits in the Appellant's name for the year 2013 in the amount of \$2,735.79.
- Copies of the Appellant's T4A Statement of Canada Pension Plan benefits for the year 2013 in the amount of \$7,947.96.
- A copy of the Appellant's Income Tax return for the year 2013.
- Copies of the Appellant's T4A Statement of Canada Pension Plan benefits for the year 2012 in the amount of \$7,807.44.
- A copy of the Appellant's Income Tax return for the year 2012.
- A copy of the Appellant's Income Tax return for the year 2011.
- Copies of a T5007 Statement of Benefits in the Appellant's name for the year 2011 in the amount of \$3,529.73.
- Copies of the Appellant's T4A Statement of Canada Pension Plan benefits for the year 2011 in the amount of \$7,594.80.
- A copy of a letter from a leasing company dated November 24, 2014 stating that the Appellant leases furniture from them.
- A copy of a Schedule and Certificate of Insurance in the Appellant's name dated August 30, 2014 to August 30, 2017 for a principle amount of \$1,200.00, insuring payments of \$50.72 per month, with a premium of \$8.54 per loan payment.
- A copy of a loan agreement in the Appellant's name, dated September 16, 2014 in the amount of \$2,925.76.
- A copy of a letter To Whom it may Concern from the Executive Director of the society of which the Appellant was president, dated November 24, 2014, stating that the Appellant was the president of the society and was compensated for meals, accommodation and mileage for board business, but does not receive remuneration for volunteer hours. It states that the Appellant receives a housing subsidy from a housing management association in the amount of \$940.00 per month, which is not considered income.
- A copy of a Notice of Rent Increase in the Appellant's name, dated August 12, 2014, stating that the

increased total rental amount for the Appellant's apartment will be \$2,575.00.

- A copy of a letter from the Appellant's landlord To Whom it may Concern, dated November 19, 2014, confirming the amount of rental of the Appellant's apartment at \$2,575.00.
- Copies of rent receipts for the months of June to October, 2014 inclusive.
- A copy of the Appellant's Residential Tenancy Agreement dated November 1, 2007, with a cover letter from the Appellant's landlord dated November 28, 2014.
- A copy of a letter to the Appellant from the Ministry dated January 15, 2015, requesting information.
- A copy of a letter from the Ministry to the Appellant dated November 13, 2014, requesting information.
- A copy of the Appellant's 2007 application for assistance.
- A copy of the Appellant's Request for Reconsideration, signed February 20, 2015.

At the hearing the Appellant submitted a copy of a bank reconciliation for the society that the Appellant was the president of, dated 30 September 2013, showing outstanding cheques and manual cheques requisitions required, with reference numbers, some with the Appellant's name. The document lists the Appellant's name and amount of payments, but does not show the purpose of the payments. The Panel did not admit this document as evidence under Section 22(4)(b) of the *Employment and Assistance Act* as it was not before the minister when the decision being appealed was made, is not corroborative and therefore it is not in support of information and records that were before the minister.

The Appellant stated that he has provided all the information available to him. He stated that with respect to the deposits to his account for which the Ministry requests verification, there is nothing he can produce to show what they were for. He stated that he has provided all of the information possible and there are no changes in his income to report. The society of which he was president has stopped operating due to a suspected fraud and no records from that society are available. With respect to the loans from a payday loan company, the Appellant stated that he could not obtain records from them without paying a fee he cannot afford. He argued that those funds were credit, not income, and he has provided the few documents he personally possesses. -

In response to questions from the Panel, the Appellant stated that contrary to the Ministry's assertion in the Reconsideration Decision, he did not decline to allow the Ministry to contact the bank and cash loan companies on his behalf; he noted that he did not provide all of the bank statements in the Appeal Record, therefore the Ministry must have obtained them (and provided them). He stated that he told the Ministry to go ahead. The Appellant likewise gave evidence that the cash loan companies would charge fees to produce documentation pertaining to his transactions with them and the Appellant could not afford the fees that would be charged. The Appellant stated that he provided bank statements and income tax information when requested and held nothing back. With respect to the deposits in question, the Appellant stated that some were from the society, and were for reimbursement of expenses related to his role as president, and some were the proceeds of loans. He stated that he is unable to obtain any records from the society at this time, as the door is locked and he did not retain any of the receipts he submitted. The Appellant stated that on his Notice of Appeal, he provided the name of a contact person at another agency who can confirm that the society is no longer operating. With respect to the requested verification of signing authorities for that society, the Appellant stated that the person who could supply this information, the former executive director, is not available; the Appellant has not been able to contact the former executive director for several months. The Appellant stated that he feels he has provided everything possible.

The Ministry, in the Reconsideration Decision, listed the outstanding information requested in a letter dated January 2, 2015:

1. Declare and provide verification of any funds you received from January 1, 2013 to date;
2. Clarification of the source of deposits to bank account for several deposits from July 10, 2013 to October 29, 2014;
3. Statement of transactions from cash loan companies; and
4. Verification of signing authority or access to business accounts in your position of president with the society.

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The Ministry stated that their investigative officer offered to contact the bank and cash loan companies, but the Appellant's former advocate declined.

PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the Ministry's decision in which the Ministry determined that the Appellant is not eligible for further disability assistance due to failure to provide information required to determine eligibility.

Legislation

EAPWDA

Information and verification

10 (1) For the purposes of

- (a) determining whether a person wanting to apply for disability assistance or hardship assistance is eligible to apply for it,
- (b) determining or auditing eligibility for disability 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 disability 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 disability 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 disability assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period.

EAPWDR

Consequences of failing to provide information or verification when directed

28 (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 disability 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 disability assistance or hardship assistance of the dependent youth's family unit lasts until the dependent youth complies with the direction.

The Ministry's reconsideration decision states that the Appellant has not fully complied with their request to provide information related to his income and bank deposits; therefore his eligibility for disability assistance cannot be determined and he is ineligible for disability assistance due to failure to provide information to determine eligibility.

The Appellant argues that he has complied to the best of his ability; he stated that he cannot obtain records from the society of which he was president because it no longer operates, he cannot provide information from the cash loan companies because he cannot afford the fee, although he does not object to the Ministry doing so, and he has provided all of the information available to him.

The Panel finds that the Appellant has not provided verification of funds received from January 1, 2013 to date, clarification of the source of deposits to his bank account, statements of transactions from cash loan companies or verification of signing authorities or access to business accounts in his position as president of the society.

The Panel notes the Appellant states that most of the missing information relates to the now defunct society of which the Appellant was president. The Appellant did not provide a means of verifying that the society no longer operates until he submitted his Notice of Appeal to the Tribunal. He stated that he has no objection to the Ministry obtaining records from the bank or cash loan companies, although the Ministry stated that the Appellant's previous advocate did decline an offer by the Ministry to obtain the outstanding disclosure from the Appellant's bank and from cash loan companies on the Appellant's behalf, notwithstanding the cost of obtaining the requested documentation. Although it is possible that the missing or incomplete information may now be provided or obtained through the contact information provided on the Notice of Appeal and through the Ministry contacting the bank or cash loan companies directly, the Appellant had not provided it to the Ministry at the time of the reconsideration decision.

The Panel finds that the Ministry's decision was reasonably supported by the evidence. The Panel therefore confirms the Ministry's decision.