

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (the Ministry's) decision dated April 13, 2015, which held that the Appellant was ineligible for income assistance because she did not provide all of the information requested by the Ministry under section 10(1) and 10(4) of the Employment and Assistance Act (EAA), and will be ineligible for assistance as set out in section 32(1) Employment and Assistance Regulation (EAR) until she complies with the Ministry's direction.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) section 10(1) and 10(4)
Employment and Assistance Regulation (EAR) section 32(1)

PART E – Summary of Facts

The Appellant was not in attendance at the hearing. After confirming that the Appellant was notified, the hearing proceeded under section 86(b) of the EAR.

The evidence before the Ministry at reconsideration was the following:

- A letter from the Ministry, dated November 6, 2014, requesting information from the Appellant in order to determine current eligibility for income assistance. The Ministry requested current rent receipts and utility bills, pay statements or pay stubs for all income, records of employment, banking profile for all accounts, investment statements, and receipts and insurance for two vehicles registered in the Appellant's name.
- A letter from the Ministry, dated December 18, 2014, indicating that the Ministry had not yet received all of the information requested and again listed the documents required to determine eligibility.
- A letter from the Ministry, dated January 13, 2015, indicating that the Ministry had not yet received all of the requested information and advising the Appellant that she is no longer eligible for income assistance.

In the request for reconsideration, dated February 19, 2015, the Appellant states that she doesn't have pay stubs from June 2014-November 19, 2014 because she was not working, nor does she have records of employment for that period. The Appellant states that she gave bank statements and had no other source of income for those dates. She says that she gave the insurance papers and that the Ministry knew that she had principal insurance on her ex-partner's vehicle. In addition she states that there is no sales receipt for one of the vehicles, and she already handed in a statement from the owner of the second vehicle. She says that the kids are usually with her Monday through Friday and the Ministry knew that her ex-husband also has care of the children. She says that she has agreed to an overpayment plan and everything else.

At the Notice of Appeal, dated April 17, 2015, the Appellant stated that this was an unjust decision. She states that the investigative officer did not submit all of the documents that she provided and that her documents were tampered with.

Also included in the Notice of Appeal is a letter from the Appellant's ex-partner, stamped received by the Ministry on April 17, 2015, stating that the Appellant did not claim an income from his business because he was the sole proprietor and the only one who ever claimed income from the business. He states that the Appellant helped out with some paperwork, but only as a spouse and not as an employee.

At the hearing, the Ministry reviewed the evidence from the reconsideration decision and noted that although the Appellant did submit a printout of her bank account balance to the Ministry, the Ministry requires a full banking profile in order review all of the Appellant's banking accounts, investments, and assets. In addition, although the Appellant did provide the bottom third of the first page of her proof of insurance, the Ministry needs the upper portion that identifies the primary user and registered owner of the vehicles.

The panel determined that the April 17, 2015 letter was admissible under section 22(4) of the EAA as it tends to corroborate and is in support of the records before the Ministry at reconsideration,

specifically the Appellant's statement that she had no employment income.

The panel finds that there is no dispute that the Appellant has satisfied the Ministry requirements for pay statements, rent receipts, and a bank statement for June to November 2014. The panel also finds that the Ministry is requesting information on the full bank profile and statement of investments, sales receipt and complete insurance information for the two vehicles, child custody arrangements, and employment information. The panel finds that the Ministry originally requested the original information on November 6, 2014 and again on December 18, 2014 before finding the Appellant ineligible on January 13, 2015.

PART F – Reasons for Panel Decision

The issue on appeal is whether the Ministry's decision that the Appellant was ineligible for income assistance because she did not provide all of the information requested by the Ministry under section 10(1) and 10(4) of the EAA, and will be ineligible for assistance as set out in section 32(1) EAR until she complies with the Ministry's direction is reasonably supported by the evidence, or a reasonable application of the legislation in the circumstances of the Appellant.

The legislation provides the following:

Employment and Assistance Act

Information and verification

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.

Employment and Assistance Regulation

Consequences of failing to provide information or verification when directed

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 Ministry argued that the EAA legislation provides the ministry with the authority to request information to determine a person's eligibility for income assistance. The ministry requested information concerning the appellant's banking information, bank profile, bank account(s), rent receipts, child custody information, income stubs and shelter arrangements. In this case, an audit on the Appellant's file was started due to allegations of undeclared rental income and accommodation issues. The Ministry argues that they requested banking information, pay statements, record of employment, investment information, receipts and insurance for the two vehicles, custody and support orders for the children and confirmation of employment for the Appellant's ex-husband's

business. The Ministry argued that the timeframe for the request was reasonable as the initial request for the information was mailed on November 6, 2014 and when the Appellant did not respond, a second request was mailed December 18, 2014, and when the Appellant did not respond again, the Ministry sent a letter to the Appellant on January 13, 2015 stating that the Appellant was not eligible for assistance. On February 20, 2015, the Ministry received the request for reconsideration from the Appellant stating that the Ministry had been provided with a number of documents. The Ministry argued that a file review showed that the complete banking profile, the sale receipts and insurance for the two vehicles, custody and support information, and the employment information from the Appellant's ex-husband's business had not yet been provided. The Ministry argued that according to section 10(1) of the EAA, the Ministry can choose both the timeframe and the type of information to verify eligibility for assistance, and that in this case, the amount of time allowed for the Appellant to respond was reasonable and the type of information requested was information that is routinely requested in order to determine eligibility. As a result, the Ministry argues that it was reasonable to determine that the Appellant was ineligible for income assistance as set out in section 10(4) EAA and, as a result, will be ineligible for assistance until she complies with the ministry's request as stated in section 32(1) EAR.

In the request for reconsideration, the Appellant argues that she has accepted responsibility for everything and given all of the information and that this should be good enough. The Appellant argues that she is very ill and currently living on the street. She argues that she is very sorry for this ordeal, but she cannot continue to live without heat, and medications and supplies. She argues that there is no sales receipt for her vehicle, she handed in a statement from the owner of the second vehicle, that the Ministry was aware that her ex-husband helped with food and looks after the kids as well, and in the notice of Appeal, the Appellant argues that this was an unjust and unfair decision. She stated that the investigative officer tampered with and did not submit the documents that she provided.

The panel finds that the Ministry's request for information to determine and verify eligibility under section 10(1) of the EAA was a reasonable application of the legislation in the circumstances of the Appellant. Because there were allegations of undeclared income and accommodation issues, the panel finds that the request for further information on the outstanding full bank profile and statement of investments, sales receipt and complete insurance information for the two vehicles, child custody arrangements, and employment information are reasonable requests to determine or verify eligibility for income assistance. In addition, because there is no record that the Ministry received information for the two months after the first request on November 6, 2014 and the letter denying income assistance was mailed on January 13, 2015, the panel finds that the Appellant had a reasonable timeframe within which to supply the requested information. With the Notice of Appeal, the Appellant provided a note from her ex-partner explaining her role in his business. This information supports the Appellant's statements that she did not receive income between June and November 2014, but the documentary evidence was not before the Ministry at reconsideration and none of the other outstanding information was provided. Further, the panel notes that because the Appellant was able to provide one of her bank statements and a portion of the insurance information, it is reasonable to expect that she could obtain the remaining portion.

The panel also finds that the Ministry's determination that the Appellant will remain ineligible for income assistance until she complies with the Ministry's direction under section 32(1) of the EAR was a reasonable application of the legislation.

The panel therefore finds that the Ministry's reconsideration decision was a reasonable application of the legislation and confirms the Ministry's decision.