

PART C – Decision under Appeal

The decision under appeal is the May 12, 2015 reconsideration decision of the Ministry of Social Development and Social Innovation (the Ministry) in which the Ministry denied the Appellant disability assistance (PWD benefits) because he had assets that exceed the allowable limit of \$5,000 as set out in the Employment and Assistance for Persons with Disabilities Regulation, Sections 1 and 10.

PART D – Relevant Legislation

Employment and Assistance for Persons With Disabilities Act , (EAPWDA) Section 3

Employment and Assistance for Persons With Disabilities Regulation , (EAPWDR) Section 1 and 10

PART E – Summary of Facts

The Appellant receives disability assistance as a single individual and on April 22, 2015 he was informed his assistance was discontinued due to having non-exempt assets in excess of \$5,000.

The evidence before the Ministry at the time of reconsideration included the following:

- A quote for a “Bobcat” for \$15,562.40.
- An invoice for a brush cat attachment for the “Bobcat” dated May 28, 2014 for \$8,512.
- An invoice for a snowblade attachment for the “Bobcat” dated May 28, 2014 for \$3,698.
- An invoice for a backhoe and bucket attachment for the “Bobcat” dated May 28, 2014 for \$9,408.
- A bank draft dated January 30, 2014 for \$16,500.
- A letter from the Ministry to the Appellant dated March 31, 2015 that explains the Ministry conducts file reviews for the purpose of determining current or auditing past eligibility for assistance. After a review the Ministry found the Appellant no longer eligible for assistance because he had an asset (the “Bobcat” and related equipment) valued at \$37,000 which does not meet the definition of an exempted asset and is over the asset exemption level (\$5,000) for a single person family unit receiving disability assistance.

A submission from the Appellant in which the Appellant classifies the “Bobcat” and equipment as a “one time gift” and therefore an asset, not income. The Appellant understood that the gift was exempt because he had reported this gift through his income tax return and because he released his bank information to the Ministry. The equipment was a necessary purchase to continue living in his home because it provides him with access to water and potentially to electricity. It also provides him the ability to leave his property in the winter and may provide him with access to another source of income. He had made inquiries about what assets were permitted to recipients of PWD benefits when he received the funds on January 3, 2014 and February 28, 2014 but received no direction from the Ministry or the financial institution. He concludes he will have to discontinue necessary prescription medications and medical treatments if denied PWD benefits and that the equipment allows him to continue residing in his home, and the assets are an inheritance from his parents and therefore should be considered as a “one time gift”.

New evidence provided by the Appellant included the following:

- A submission dated June 19, 2015 from the Appellant’s advocate that states the Appellant’s purchase of a “Bobcat” and related equipment (the equipment) are necessary household equipment similar to a pump, lawnmower or furnace because of the fact his home is rurally located and he is disabled so he needs the equipment to maintain his yard and to clear his driveway of snow in winter. He requires the equipment for snow removal to clear his driveway in order to leave his property in the winter, to manhandle objects around his home and yard, and to mow and maintain his yard and property. The submission states the equipment is part of the Appellant’s place of residence because he purchased the equipment as a way to make overdue and necessary repairs and upgrades to his home and to maintain his property. Since purchasing the equipment he has been able to clean up his yard and restore his water supply and hopes to soon regain electrical services. The submission states the equipment are business tools because when the equipment was purchased the Appellant had a plan to hire out the equipment with an operator as a business venture to employ himself and possibly one other person. The submission concludes that the Appellant’s purchase of the equipment demonstrates his desire to take responsibility for himself and his personal and financial independence and that without continued PWD benefits he will be severely hampered from

achieving that goal.

- A letter dated June 22, 2015 from a health authority's mental health and substance use worker that states the Ministry's review and subsequent termination of PWD benefits have been extremely stressful for the Appellant. The worker reports the Appellant is experiencing pain from a fall and processing news about a friend's death. He appeared agitated, disheveled and neglecting his personal hygiene. He also reported nausea, vomiting due to anxiety, and expressed suicidal ideation. He remains quite depressed since the termination of benefits. The letter concludes that there has been no change in his physical or mental functioning that would preclude him from PWD eligibility.

The Ministry had no objections to this additional information. The Panel finds the submission dated June 19, 2015 is largely comprised of argument but does include some evidence corroborating the evidence before the Ministry at the time of the reconsideration decision and admits that information as evidence in support of the information at reconsideration under EAA, Section 22(4)(b). The Panel finds the letter dated June 22, 2015 supports the fact that the Appellant had been eligible and receiving PWD benefits which is evidence that was before the Ministry at the time of the reconsideration decision and admits the document as evidence under EAA, Section 22(4)(b).

At the hearing, the Advocate summarized the submission dated June 19, 2015 and stated the equipment is necessary for the Appellant to connect to common services such a water and electricity and to manage his yard maintenance. The equipment allows him to do maintenance he would otherwise be unable to do due to his disabilities. The Appellant would like to utilize the equipment as business tools but his emotional state has prevented him moving forward with this plan. She summarized by stating the Appellant is trying to move forward and to take personal responsibility for his financial wellbeing.

The Appellant stated the equipment is a reminder to him how his parents had always helped him. He added that without PWD benefits, he may not have access to the local food bank. Upon questioning, he stated he had lived on the property for 25 years, that his disabilities included an early onset form of arthritis called Ankylosing Spondylitis which is extremely painful and debilitating. He stated he did not advise the Ministry about his inheritance and subsequent equipment purchases because he thought it would be dealt with when he filed his 2014 income tax return. He also stated that he kept the inheritance money in a separate account. He stated he did have a vehicle for transportation. He clarified that he used the equipment to dig up his water supply pipe so the local water board would repair it. He plans to use the equipment to move items away from his house so access is available to reconnect an electrical supply.

At the hearing the Ministry stated in order for equipment to be eligible as business tools, an applicant must be enrolled in a self employment program and have prior approval from the Ministry. The Ministry also explained that if the equipment is specified as a onetime gift, it is considered as an asset and therefore could not exceed the eligibility limit of \$5,000.

Upon questioning, the Ministry explained that typical household equipment includes common items such as kitchen appliances and a basic lawn mower. Also, one basic vehicle is exempt for PWD recipients; any other vehicle is considered an asset. The Ministry explained that PWD recipients are required to notify the Ministry immediately if their financial situation changes and this requirement is made clear to the recipient when first becoming eligible for benefits and is specified in writing on the

monthly benefit slip.

The Panel finds as fact that the following:

- The Appellant was a recipient of disability assistance (PWD benefits) since 2008.
- The Appellant received an inheritance in 2014.
- The Appellant purchased a "Bobcat" in January of 2014 and related equipment in May of 2014 at an invoiced value of \$37,180.40.
- The Appellant had his disability assistance discontinued on April 22, 2015.

PART F – Reasons for Panel Decision

The issue on this appeal is whether the Ministry decision to deny the Appellant disability assistance because he had assets that exceed the allowable limit as set out in the EAPWDR, Section 1 and 10 is reasonably supported by the evidence or a reasonable application of the applicable legislation.

The following legislation applies to this appeal:

EAPWDA Section 3

For the purposes of this Act, a family unit is eligible, in relation to disability assistance, hardship assistance or a supplement, if

(b) the family unit has not been declared ineligible for the disability assistance, hardship assistance or supplement under this Act.

EAPWDR Section 1 (1) In this regulation:

“asset” means

(a) equity in any real or personal property that can be converted to cash,

(b) a beneficial interest in real or personal property held in trust, or

(c) cash assets;

Section 10 (1) The following assets are exempt for the purposes of subsection (2):

(a) clothing and necessary household equipment;

(b) one motor vehicle generally used for day to day transportation needs;

I a family unit's place of residence;

(i) business tools;

Section 10 (2) A family unit is not eligible for disability assistance if any of the following apply:

(a) a sole applicant or sole recipient has no dependent children and has assets with a total value of more than \$5 000;

In the Notice of Appeal dated June 4, 2015 the Appellant argues the equipment are exempt items because they are a fixture of his place of residence which are necessary for him to remain in his home. He also argues the equipment is a business tool which is intended to provide another source of income.

In the Appellant's submission from his advocate dated June 19, 2015 he argues the equipment is necessary household equipment similar to a pump, lawnmower or furnace because of the fact his home is rurally located and he is disabled he needs the equipment to maintain his yard and to clear his driveway of snow in winter. He requires the equipment for snow removal to clear his driveway in

order to leave his property in the winter, to manhandle objects around his home and yard, and to mow and maintain his yard and property.

The submission argues the equipment is part of the Appellant's place of residence because he purchased the equipment as a way to make overdue and necessary repairs and upgrades to his home and to maintain his property. Since purchasing the equipment he has been able to clean up his yard and restore his water supply and hopes to soon regain electrical services.

The submission argues the equipment are business tools because when the equipment was purchased the Appellant had a plan to hire out the equipment with an operator as a business venture to employ himself and possibly one other person.

The submission concludes that the Appellant's purchase of the equipment demonstrates his desire to take responsibility for himself and his personal and financial independence and that without continued PWD benefits he will be severely hampered from achieving that goal.

The Ministry argues the equipment is not exempt under the regulations and the value of the equipment is over the allowable asset value of \$5,000.

The Appellant has lived in the home on his property for 25 years without the benefit of the equipment he recently purchased and although he has improved his property with the equipment this does not mean that it is necessary household equipment. Furthermore; heavy duty equipment is not typically or commonly included as necessary household equipment which is reasonably viewed as items suggested by the ministry and other equipment such as a vacuum. The Panel finds the Ministry reasonably decided that the Appellant's equipment is not exempt as necessary household equipment.

The Appellant testified he used the equipment to make repairs and upgrades to his property and is therefore a part or a fixture of his place of residence, however a place of residence is defined as one's house, home or dwelling. The equipment is not a fixture or attached in any way to the Appellant's place of residence. The Panel finds the Ministry reasonably decided that the Appellant's equipment is not exempt as his place of residence.

The Appellant has stated he intends or plans to hire the equipment out, perhaps with an operator as a small business. However while the Appellant may have the intention of starting a business, he currently does not have a business and is not enrolled in a Ministry approved self-employment program. Therefore, the Panel finds the Ministry reasonably decided that the Appellant's equipment is not exempt as business tools.

The Ministry has reasonably determined that the equipment fall within the meaning of asset as defined in Section 1(1) of the EAPWDR as equity in personal property that can be converted to cash. As the equipment is not an exempt asset and the value of the equipment is approximately \$37,000 and is over the asset limit of \$5,000 for a single recipient of disability assistance set out in Section 10(2) of the EAPWDR, the Panel finds the Ministry's determination to deny the Appellant disability assistance because he has assets that exceed the allowable limit was a reasonable application of the legislation in the circumstances of the Appellant. The Panel therefore confirms the Ministry's decision.