

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (“the Ministry”) reconsideration decision dated July 14, 2015, which denied the Appellant Income Assistance (IA) because she failed to provide information and documentation as directed by the Ministry to determine her eligibility for IA pursuant to section 10 of the Employment and Assistance Act (EAA) and section 32 of the Employment and Assistance Regulations (EAR). Specifically, the Appellant failed to provide all her 2010 Records of Employment (ROE’s) when directed to by the Ministry.

PART D – Relevant Legislation

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

PART E – Summary of Facts

The Appellant did not attend the tribunal hearing. After confirming that she had received notification of the hearing via registered mail on July 31, 2015, the hearing proceeded as per EAR section 86(b).

The panel reviewed the following documents included in the appeal record:

- A letter from the Ministry dated May 8, 2015 advising the Appellant that her file had been reviewed and requesting that the Appellant submit information to the Ministry in order to determine her eligibility for income assistance. The Ministry requested rent receipts, utility bills for the period December 2014 – May 2015, records of employment from all employers during the period 2009 – 2015, Statements from all bank accounts for the period December 2014 – May 2015, banking profiles from TD and CIBC, Income Tax Notice of Assessment for 2009 – 2014, and tax slips (T4's) for 2009 – 2014. The letter requested these items be submitted to the Ministry by May 21, 2015.
- A letter from the Ministry dated May 22, 2015 advising the Appellant that her next assistance payment will be held until she provides the Ministry with a Record of Employment from all employers during the period 2009 – 2015, Income Tax Notice of Assessment for 2009 – 2014, and tax slips (T4's) for 2009 – 2014.
- A letter from the Ministry dated June 10, 2015, advising the Appellant that two letters had been sent requesting a Record of Employment from all employers during the period 2009 – 2015, Income Tax Notice of Assessment for 2009 – 2014, and tax slips (T4's) for 2009 – 2014, and that this information is required to determine eligibility for assistance and that failure to provide the information could result in a denial of assistance. The letter advises that as the Ministry had not received all the requested information, the Appellant's eligibility for income assistance cannot be determined and her file will be closed on July 8, 2015.
- A Request for Reconsideration dated July 2, 2015 by the Ministry; Section 3 (Reason for Request for Reconsideration) which would normally be completed by the Appellant, is blank. The Ministry indicates on this form that "You have been denied income assistance as you have displayed a pattern of non-compliance with Section 10 legislation, and are no longer eligible for income assistance." The Ministry summarized the events that led up to this decision:
 - The Investigative Officer (IO) began a file review on May 8, 2015 and attempted to contact the Appellant by phone but the phone number was not valid so the first request for information letter was mailed requesting a response by May 21, 2015.
 - On May 20, 2015, the Appellant called the IO and requested an extension, and a four week extension was granted for the tax documents.
 - On May 22, 2015 the Appellant submitted other documents that had been requested and advised that the Appellant had ordered the tax documents from Canada Revenue Agency and was expecting them in the mail and would submit the Records of Employment.
 - The IO mailed a letter on May 22, 2015 requesting the documents be submitted by June 10, 2015
 - On June 10, 2015 the IO attempted to contact the Appellant again, and mailed advising the Appellant she was no longer eligible for assistance due to non-compliance with Section 10 and her file would be closed on July 8, 2015.
 - On June 17, 2015 the Appellant contacted the IO and advised that she was still waiting for the documents from Canada Revenue Agency and requested another extension. The IO denied the request for a 2nd extension and advised the Appellant to submit the documentation by July 8, 2015.
 - On June 24, 2015 the Appellant attended the Ministry office and submitted all the documents that had been requested in the original request, with the exception of the Records of Employment for 2010.
 - The IO attempted to contact the Appellant again, and on June 26, 2015 the Appellant contacted the IO in response to the phone message and advised that she could not remember where she was employed in 2010 but that she had some pay stubs that may have been from 2010. The IO advised the Appellant her cheque for July income assistance would not be released until the Records of employment or proof of income from 2010 was received.
 - On June 29th, 2015 the Appellant contacted the Ministry about her July income assistance cheque and was advised that she was required to submit her 2010 Record of Employment, at which time the Appellant requested a reconsideration.
- A Request for Reconsideration Decision dated July 14, 2015 stating "The issue at hand is your eligibility with regards to you providing all your 2010 ROE's (or proof of your 2010 income, e.g. pay stubs). The minister is satisfied that you have been notified of the requested information.....The minister is also satisfied that you have been provided adequate opportunity to obtain and provide the information." The decision goes on to clarify that a file review indicated that the Appellant had received income assistance in 2010 and earned almost \$17,000 in

2010 but had not declared any employment income and in order to determine her eligibility for assistance, this information is required.

- A Notice of Appeal, signed and dated July 17, 2015 in which the Appellant states that she has, “not received the 2010 ROE I’m waiting for this info in the mail. I am also unable to work due to health reasons. I’ve brought in 2 doctors notes that should be on file.”

At the appeal hearing, the Ministry relied on the evidence in the appeal record and clarified that the income tax statement was not sufficient to determine whether there was overlap between the Appellant’s earned income and receipt of income assistance in 2010; the ROE was required as this would include a breakdown of how much the Appellant was paid and when.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry's decision to deny the Appellant IA because of a failure to provide the Ministry with information and documentation was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the Appellant. Specifically, the Appellant failed to provide the 2010 Records of Employment (ROE's) when directed to by the Ministry.

Relevant Legislation:

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.

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 Parties' Positions

The Appellant argues she has applied for but not received the 2010 ROE, it is in the mail, and that she is currently unable to work due to health reasons and has brought in 2 doctors notes.

The Ministry argues that they directed the Appellant to provide information in order to determine eligibility for income assistance she received in 2010. They advised her of this requirement in writing and provided her with a four week extension, but the Appellant did not provide the Record(s) of Employment as directed. The Ministry argues the Record(s) of Employment or paystubs from 2010 are the only way to determine whether the Appellant had been eligible for assistance in 2010 and that she has had sufficient time to provide the information as directed. The Ministry also noted that being unable to work does not excuse her from the requirement to provide information as directed in order to confirm her eligibility for assistance.

The legislation in Section 10 of the EAA 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. The panel finds that the Ministry's Reconsideration

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Decision denying the Appellant income assistance because she failed to provide information as directed is a reasonable application of the legislation and supported by the evidence as the Appellant failed to provide ROE's, required to determine eligibility for assistance in 2010. The panel confirms the Ministry's reconsideration decision.