

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated July 15, 2015 which found that the appellant is not eligible for income assistance for the month of July 2015, pursuant to Section 10 of the *Employment and Assistance Regulation* (EAR), as the net monthly income of the family unit exceeded the amount of assistance payable due to earned income received by the appellant in May 2015.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR), Sections 1, 10, and 28 and Schedules A and B

PART E – Summary of Facts

With the consent of both parties, the hearing was conducted as a written hearing, pursuant to section 22(3)(b) of the *Employment and Assistance Act*.

The evidence before the ministry at the time of the reconsideration decision included:

- 1) Bank statements for the month of May 2015 indicating deposits from a company on May 4, 2015 for \$835.56, on May 15, 2015 for \$938.42 and May 30 for \$659.32;
- 2) Record of Employment (ROE) dated June 12, 2015; and,
- 3) The appellant's Request for Reconsideration dated July 6, 2015.

In his Request for Reconsideration, the appellant wrote that:

- The money he earned in May 2015 he had to pay for new rent and moving and damage deposit.
- He also owed amounts for utilities and a credit card.
- Now he has no money to pay for July rent.

In his Notice of Appeal dated July 27, 2015 the appellant expressed his disagreement with the ministry's reconsideration decision and wrote that:

- His last day of work was on May 22, 2015 and he was paid for this work late (June 2015).
- In June, he had to move, pay a damage deposit, rent, moving expenses, etc.

The ministry relied on its reconsideration decision. The ministry provided information that:

- The appellant is a sole employable recipient of income assistance with no dependants. His total monthly rate is \$610, consisting of shelter of \$375, support of \$235.
- The appellant was employed with a company from February 2, 2015 to May 22, 2015.
- Based on the ROE and the bank statements, the appellant received net earnings in May of \$2,433.30.

PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry's decision, which found that the appellant is not eligible for income assistance for the month of July 2015, pursuant to Section 10 of the *Employment and Assistance Regulation* (EAR), as the net monthly income of the family unit exceeded the amount of assistance payable, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

Section 10 of the *Employment and Assistance Regulation* (EAPWDR) provides:

Limits on income

- 10** (1) For the purposes of the Act and this regulation, "income", in relation to a family unit, includes an amount garnished, attached, seized, deducted or set off from the income of an applicant, a recipient or a dependant.
- (2) A family unit is not eligible for income assistance if the net income of the family unit determined under Schedule B equals or exceeds the amount of income assistance determined under Schedule A for a family unit matching that family unit.

Schedule A of the EAR sets out the total amount of income assistance payable as the sum of the monthly support allowance for a family unit matching the family unit of the applicant or recipient plus the applicable shelter allowance. In calculating the net income of a family unit under Schedule B, various exemptions from income are provided for but, otherwise, all earned and unearned income must be included.

Section 1 of Schedule B of the EAPWDR provides as follows:

When calculating the net income of a family unit for the purposes of section 24 (b) [*amount of disability assistance*] of this regulation,

. . .

- (b) any amount garnished, attached, seized, deducted or set off from income is considered to be income, except the deductions permitted under sections 2 and 6,
- (c) all earned income must be included, except the deductions permitted under section 2 and any earned income exempted under sections 3, 3.1 and 4, and
- (d) all unearned income must be included, except the deductions permitted under section 6 and any income exempted under sections 7, 7.1, 7.2 and 8.

Section 1 of the EAR defines "earned income" as:

"earned income" means

- (a) any money or value received in exchange for work or the provision of a service,
- (b) Repealed. [B.C. Reg. 197/2012, Sch. 2, s. 1 (a).]
- (c) pension plan contributions that are refunded because of insufficient contributions to create a pension,
- (d) money or value received from providing room and board at a person's place of residence, or
- (e) money or value received from renting rooms that are common to and part of a person's place of residence;

Section 3 of Schedule B of the EAR sets out specific exemptions from earned income as follows:

Exemptions — earned income

- 3 (1) Subject to subsection (2), the amount of earned income calculated under subsection (6) is exempt for a family unit.

- (2) If an application for income assistance (part 2) form is submitted to the minister, the family unit may not claim an exemption under this section in relation to the first calendar month for which the family unit becomes eligible for income assistance unless a member of the family unit received disability assistance under the Employment and Assistance for Persons with Disabilities Act for the calendar month immediately preceding that first calendar month.
- (3) Unless otherwise provided under subsection (4) or (5), the amount of earned income calculated under subsection (6) (a) is exempt for a family unit that qualifies under this section.
- (4) The amount of earned income calculated under subsection (6) (b) is exempt for the family unit if
- (a) the family unit includes a sole recipient who
 - (i) has a dependent child, or
 - (ii) has in his or her care a foster child, and
 - (b) the child has a physical or mental condition that, in the minister's opinion, precludes the sole recipient from leaving home for the purposes of employment or working, on average, more than 30 hours each week.
- (5) The amount of earned income calculated under subsection (6) (c) is exempt for the family unit if any person in the family unit is a person who has persistent multiple barriers to employment.
- (6) The exempt amount for a family unit that qualifies under this section is calculated as follows:
- (a) in the case of a family unit to which subsection (3) applies, the exempt amount is calculated as the lesser of
 - (i) \$200, and
 - (ii) the family unit's total earned income in the calendar month of calculation;
 - (b) in the case of a family unit to which subsection (4) applies, the exempt amount is calculated as the lesser of
 - (i) \$300, and
 - (ii) the family unit's total earned income in the calendar month of calculation;
 - (c) in the case of a family unit to which subsection (5) applies, the exempt amount is calculated as the lesser of
 - (i) \$500, and
 - (ii) the family unit's total earned income in the calendar month of calculation.
- (7) A transient is not entitled to an exemption under this section.

Ministry's position

The ministry's position, as set out in the reconsideration decision, is that the amount of employment income received by the appellant in May 2015 to be reported by the 5th of June, less the applicable exemption of \$200, exceeded his monthly income assistance amount of \$610 and, pursuant to Section 10 of the EAR, the appellant is therefore not eligible for assistance for the month of July 2015. The ministry wrote that the definition of "earned income" means any money received in exchange for work or the provision of a service. The ministry stated that, under Schedule B, all earned income must be included in the calculation of income except the exemption allowed for earned income under Section 3 of Schedule B, which, for a family unit with no dependants is \$200. The ministry stated that the appellant's total income earned from employment in May 2015 was \$2,433.30, less the \$200 exemption, for a total of \$2,233.30, which is more than the appellant's assistance rate of \$610.

Appellant's position

The appellant does not dispute that he was in receipt of employment income in the amount of \$2,433.30 but argued in his Request for Reconsideration that the money he earned in May 2015 he had to pay for new rent and moving and damage deposit and he also owed amounts for utilities and a

credit card. The appellant wrote that he has no money to pay for July rent. In his Notice of Appeal, the appellant wrote that his last day of work was on May 22, 2015 and he was paid for this work late (June 2015).

Panel's decision

Under Section 1(d) of Schedule B of the EAR, all earned income *must* be included in the calculation of net income unless there is an allowed deduction or an amount is specifically exempted and, according to Section 1 of the EAPWDR, "earned income" is defined to mean "any money or value received in exchange for work or the provision of a service." The use of the word "must" in Schedule B of the EAR requires the ministry to include all earned income in the calculation of the net income of a family unit except for permitted deductions and applicable exemption amounts set out in the Schedule. Section 3(6)(a) of Schedule B of the EAR sets out an applicable exemption for earned income of the lesser of \$200 and the family unit's total earned income in the calendar month of calculation.

The appellant does not dispute that he was in receipt of employment income in May 2015 in the amount of \$2,433.30, which was confirmed by the deposits to his bank account in May 2015, and the applicable deduction of \$200 yields a total net income for the month of \$2,233.30. The appellant also does not dispute that his income assistance amount as a sole employable recipient with no dependants is \$610 per month. The panel finds that the ministry reasonably concluded that the amount of the appellant's May 2015 net income (\$2,233.30) exceeded the amount of assistance determined under Schedule A for the appellant's family unit (\$610) and that the appellant is, therefore, not eligible for income assistance for the month of July 2015, pursuant to Section 10 of the EAR.

Conclusion

The panel finds that the ministry reconsideration decision was reasonably supported by the evidence and confirms the decision pursuant to Section 24(2)(a) of the *Employment and Assistance Act*.