

### PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (the "ministry") dated July 17, 2015 which held that the appellant was not eligible for income assistance because the ministry determined that the appellant did not provide all the information directed by the minister as per Section 10 of the Employment and Assistance Act (EAA). For the purposes of Section 10 of the EAA, under section 32 of the Employment and Assistance Regulation (EAR) the appellant is not eligible for income assistance until he complies with the direction.

### PART D – Relevant Legislation

Employment and Assistance Act (EAA) Section 10

Employment and Assistance Regulation (EAR) Section 32

## PART E – Summary of Facts

The evidence before the ministry at reconsideration was as follows:

- The appellant is a single employable person who has been receiving social assistance as a sole recipient.
- The appellant's file was re-opened in January 2015; prior to this the file was open January 2008 to November 2011 and May 2012 to August 2014.
- May 7, 2015: An Investigative Officer (IO) commenced a review of the appellant's file due to a data match with Canada Revenue Agency which indicated more than \$6,000 earned income in 2013. The IO reviewed the appellant's file and completed a phone interview with the appellant during which the IO discussed the appellant's past employment income, shelter accuracy, Canada Pension Plan (CPP) – early retirement benefits (past due) and the appellant's completion of the ISP 1613 form (Consent to Deduction and Payment – CPP). As per the appellant's request the IO made the ISP 1613 form available at a Service BC office for the appellant to sign.
- May 11, 2015: The appellant did not attend the Service BC office to sign the ISP 1613 nor did he submit his CPP application for early retirement benefits. The IO mailed a 1<sup>st</sup> Request for Information letter stating the following information was due by Thursday May 21, 2015:
  - Rent receipts and utility bills for March, April and May 2015;
  - Records of Employment (ROE) from all employers during the period of 2011 to 2015;
  - Tax slips (T4's, T5's etc.) for 2011 to 2014;
  - Updated Shelter Information form to confirm physical and mailing address and rental amount;The letter also directed the appellant to submit his CPP early retirement application and complete the ISP 1613 form by May 21.
- May 27, 2015: The IO noted that the appellant did not submit any of the requested information or documents and mailed a 2<sup>nd</sup> Request for Information letter advising that all the aforementioned requested information was required by June 5, 2015.
- June 3, 2015: The IO called the appellant and left a message asking for a progress report on the requested items. The appellant did not respond.
- June 8, 2015: As there had been no further contact from the appellant and he had not submitted the requested information, the IO denied the appellant further income assistance benefits under Section 10 of the EAA. A Section 10 Denial letter dated June 8 was mailed to the appellant and cheque production was turned off.
- June 15, 2015: Service BC contacted the IO and advised that the appellant had attended the office to sign the ISP 1613 but did not bring his CPP application. The IO called the appellant and left a message advising that the original CPP application was required so it could be mailed with the ISP 1613.
- June 15, 2015: Service BC called the IO to advise that the appellant had attended to sign the ISP 1613 but did not bring his CPP application. The IO left the appellant a phone message advising that the CPP application was required.
- June 19, 2015: A letter from WorkSafeBC to the appellant stating that his claim is being reviewed and further information is required in order the his claim review to proceed. A Worker's Authorization for Release of Personal Information form is attached.
- June 23, 2015: The appellant called the IO and advised that he had the completed CPP application. The IO reminded the appellant that the original is required. The appellant advised he would submit it to the Service BC office when he next in town. The IO attempted to review the list of items needed with the appellant but the appellant stated he had the Section 10 Denial letter and did not have to review the list over the phone.
- June 24, 2015: the IO received a voice mail from the appellant advising he would submit some of the requested items and stated that some of the documents were submitted previously and should already be on his file, such as his 2012 T4's. The IO was unable to locate the documents and could not find any

history of their being submitted.

- July 6, 2015: The IO spoke to the appellant by phone; he had not submitted any of his documents nor his CPP application. As the appellant continued to be non-compliant with respect to the request for documents and information, he was not eligible for income assistance benefits. The appellant requested a reconsideration of the decision.
- July 8, 2015: The appellant submitted a Request for Reconsideration in which he stated that he was in the process of obtaining his ROE from his former employer. However, his boss had passed away in November and he had been unable to get hold of his wife who was still in mourning.
- July 9, 2015, and July 16, 2015: The ministry received the appellant's completed Shelter Information form, room and board receipts from March to May 2015, an ROE for 2014, the CPP application and the ISP 1613 form.

On July 17, 2015 the minister reviewed the Request for Reconsideration.

On August 5, 2015 the appellant submitted a Notice of Appeal in which he stated in the Reasons for Appeal "I still need social assistance."

The appellant did not have the appeal documents with him but stated that he did not need them and the hearing should continue.

At the hearing, the appellant stated that he had worked for his former boss for 34 years before he passed away. He has been trying to obtain ROE's for 2012 and 2013 from the company but apparently they were never completed or filed because he has never received copies and Service Canada Employment Insurance told him they don't have any record of ROE's being filed for those years.

He said that he was forced to send in a CPP application and to sign a form saying he has to pay back money owed to the government. He said he has been in hospital recovering from pleurisy and he has recently had two mild heart attacks. He needs income assistance; he received his last cheque ten days ago and his mother cannot help him financially. He has been a journeyman for decades and now has to go through all this because he has no choice. The appellant further explained as a result of previous injuries he is only able to work three or four months a year and is therefore not eligible for employment insurance.

When questioned by the panel about whether he has obtained all the information the ministry is requesting, the appellant replied that he hasn't checked with his income tax preparer who should have information about his income and taxes paid for 2012 and 2013. He said he could phone and probably get that information. The appellant said that he worked each year from 2011 to 2014 and he filed a tax return for each year but 2011 because he only worked for two weeks in that year.

The panel referred to a document from WorkSafeBC in the appeal package. The appellant stated that he is re-opening his claim with Workers' Compensation and the union is helping him but he doesn't know if he will get anything. He is currently living in a shelter and needs his income assistance cheques.

When asked if he had been given enough information by the Investigative Officer about how to get the information the ministry was requesting, he said yes, but wasn't able to get the information from them. He said he hasn't been able to track down his former boss's wife about his ROE's, he hasn't received paperwork from Revenue Canada because they sent it to the wrong address, and the person who has been helping him in Service BC has been away or otherwise unavailable when he has tried to reach her.

The ministry adopted its reconsideration summary as its submission and did not introduce any new evidence. The ministry representative reviewed the timeline of events from May 7 to July 19, 2015. She confirmed that

the appellant did submit some of the requested documentation on July 19 but that the ministry is still missing ROE's from 2011 to 2015 and Tax Slips from 2011 to 2014.

Having heard the appellant's testimony, the ministry representative acknowledged that the ministry realizes now that the appellant appears to have had problems obtaining some of the requested information. However, as this was not explained to the Investigative Officer when he and the appellant spoke, none of his reasoning was outlined for the minister by the time the reconsideration decision was made.

The panel asked the ministry representative if she could confirm that people are able to obtain income tax information from Service Canada. She replied that Service Canada will provide tax documents or if there is no record, they will provide a statement to that effect.

The panel also asked for an explanation of the ISP 1613 form. The ministry representative explained that it is a form that allows, with the client's consent, reimbursement of retroactive payments when the application for CPP benefits has been approved.

## PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry decision that found the appellant not eligible for income assistance under section 32 of the EAA, because he failed to provide all the requested information as directed by the minister under section 10 of the EAR, is reasonably supported by the evidence or is a reasonable application of the legislation in the circumstances of the appellant.

The relevant legislation is the following:

From the EAA:

### 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.

) determining or auditing eligibility for income assistance, hardship assistance or a supplement,

) 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.

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.

From the EAR:

### 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.

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 position of the ministry as set out in the reconsideration decision is that it is not satisfied that the appellant has provided the requested information as per Section 10 of the EAA.

The appellant's position is that he did attempt to obtain information but due to circumstances beyond his control he was not able to do so. He knew what he had to do but was unable to connect with people who could help him, and he was sick and in hospital.

#### The Panel's Decision

On May 11, 2015 the ministry sent a Request for Information to the appellant requesting information by May 21; the appellant did not respond. A second letter was sent on May 27 requesting information by June 5; the appellant did not respond. On June 8, the IO denied the appellant further income assistance benefits. On June 23, during a telephone conversation between the appellant and the IO, the appellant confirmed that he was aware of the information being requested because he had the denial letter in front of him listing the information.

On July 9 the appellant submitted some of the requested documents including one ROE which was for days worked from September 3 to October 10, 2014. However, the appellant did not provide information to indicate that the ROE he submitted was the only ROE for 2014 (i.e. Tax Slips). He did not provide any other of the requested ROE's for 2011 to 2015 nor did he provide information to the ministry prior to the reconsideration decision to indicate there were circumstances preventing him from doing so.

The appellant did not provide any of the requested Tax Slips for 2011 to 2014 nor did he provide information to the ministry prior to the reconsideration decision to indicate there were circumstances preventing him from doing so.

The appellant did not dispute that he was notified of the required information, provided with instructions on how to obtain it, and given opportunity to provide it.

The panel finds that while the appellant did provide some of the information requested, he did not provide all of the information requested. The panel also finds that the appellant was aware of all the information requested, the deadlines for submission, understood how to obtain the information and was given opportunity to provide the information or to explain any difficulties he was encountering in trying to obtain it.

Accordingly, the panel finds the ministry decision that the appellant was not eligible for income assistance under section 10 of the EAA is reasonably supported by the evidence. The panel therefore confirms the ministry's decision.