



PART C – Decision under Appeal

The reconsideration decision dated September 3, 2015 determined that the appellant was not eligible for income assistance for the prescribed period because he disposed of real or personal property to reduce his assets pursuant to Section 14(2)(a) of the Employment and Assistance Regulation.

PART D – Relevant Legislation

Employment and Assistance Act (EAA), Section 2 and 14.
Employment and Assistance Regulation (EAR), Section 31.

PART E – Summary of Facts

The evidence before the ministry at reconsideration consisted of:

- The appellant's application for Income Assistance dated July 17, 2015 containing Parts 1 and 2 where it was indicated that he had an immediate need for food, had received \$724 from a rental assistance program towards his \$1,100 monthly rent and owned a 2007 vehicle valued at \$5,375.
- Copies of the appellant's chequing account for the months of June and July as well as August 4, 2015.
- A statement dated August 4, 2015 entitled "Your Personal Assessment" from the appellant's bank indicating his unlimited chequing account net worth to be \$1,435.54.
- A Request for Reconsideration dated August 25, 2015 in which the appellant indicated that he received approximately \$10,000 in child tax benefits on July 20, 2015. He stated that he had not applied for these benefits for 4 years and he had to borrow money from his friends to live. Once he received this money, he stated that he paid back his friends and on July 23, 2015 he applied for personal bankruptcy which cost him approximately \$1,700. The appellant reports that he is sick and has no money.

With his Notice of Appeal dated September 9, the appellant submitted copies of Work Absence certificates from his chiropractors for June 23 through the end of September, 2015 and a copy of Notice to Creditors of Consumer Proposal filed on July 13, 2015. The appellant noted that he has a teenager to support and that he cannot work.

On Appeal, the appellant submitted the following copies of documents:

- A note dated September 24, 2015 stating that he had borrowed \$10,000 from his friends which he paid back when he received the child benefit of approximately \$10,000. He indicates that his vehicle's value is approximately \$1000. The appellant states that he paid for 2 front teeth implants and his car's repairs. He states that he is sick, has a concussion, has neck, shoulder and back pain, cannot sleep more than 4 hours and has nobody to help him. The appellant states that he must take care of his daughter and needs some help right away.
- A statement for dental care dated April 21, 2015 indicating amount due just over \$5,000 with a line drawn through and \$2,500 written and circled.
- A statement for dental care dated July 18, 2015 indicating amount due \$2,500.
- An Owners Certificate of Insurance and Vehicle License for the appellant's 2007 vehicle.
- A series of repair bills for the appellant's vehicle dated from April to June 5, 2015 for a total of approximately \$1,400.
- A copy of Notice to Creditors of Consumer Proposal filed on July 13, 2015.
- A receipt dated July 7, 2015 for financial consultation and services for \$1,360.
- A payment to a federal government agency dated May 12, 2015 for \$730.

The appellant testified that since his accident he is sick with headaches and has shoulder, neck and back pain and cannot work. He stated that he did not have any money for May, was in debt for \$1,600 and borrowed money from 2-3 friends for about \$2000 - \$3,000 each. In response to a question by the panel, the appellant stated that he did not have any record of these loans as his

culture is trusting and they don't write things down. When asked about the bank account that he routinely used to transfer money back and forth; specifically, the \$6,700 on July 20, 2015, the appellant stated only that it was not his account and it belonged to a friend whose name he would not disclose. The appellant reported that he had dental and car expenses and thought he would be working.

The ministry stood by their record and explained that within 4 days of applying for assistance, on July 20, 2015 the appellant received approximately \$10,000 and disposed of \$6,700. The ministry indicated that the appellant did not provide any further information regarding the disbursement of cash other than he was paying back a friend for money borrowed. The ministry's position, as a payer of last resort is that immediate, basic needs such as food shelter and prescriptions should be looked after before paying off loans to friends.

Pursuant to Section 22(4) of the Employment and Assistance Act, the panel admits the appellant's testimony and the documents he submitted on appeal as being consistent with and in support of evidence that was before the ministry at the time of reconsideration.

Note: The appellant complained at various times throughout the hearing about being treated unfairly by the ministry in-take worker and wanted to pursue action against the ministry. The ministry representative provided the appellant with a telephone number for his follow-up as the appellant did not want to attend a ministry office.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's decision to deny the appellant income assistance for the prescribed period because he disposed of property to reduce his assets pursuant to Section 14 of the EAR was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

Relevant Legislation

EAA

Eligibility of family unit

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

- (a) each person in the family unit on whose account the income assistance, hardship assistance or supplement is provided satisfies the initial and continuing conditions of eligibility established under this Act, and
- (b) the family unit has not been declared ineligible for the income assistance, hardship assistance or supplement under this Act.

Consequences of not accepting or disposing of property

14 (1) The minister may take action under subsection (3) if, within 2 years before the date of application for income assistance or hardship assistance or at any time while income assistance or hardship assistance is being provided, an applicant or a recipient has done either of the following:

- (a) failed to accept or pursue income, assets or other means of support that would, in the minister's opinion, enable the applicant or recipient to be completely or partly independent of income assistance, hardship assistance or supplements;
- (b) disposed of real or personal property for consideration that, in the minister's opinion, is inadequate.

(2) A family unit is not eligible for income assistance for the prescribed period if, within 2 years before the date of application for income assistance or hardship assistance or at any time while income assistance or hardship assistance is being provided, an applicant or a recipient has done either of the following:

- (a) disposed of real or personal property to reduce assets;
- (b) [Not in force.]

(3) In the circumstances described in subsection (1), the minister may

- (a) reduce the amount of income assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period, or
- (b) declare the family unit of the person ineligible for income assistance or hardship assistance for the prescribed period.

Repealed

EAR

Effect of failing to pursue or accept income or assets or of disposing of assets

31 (1) For the purposes of section 14 (3) (a) [consequences of not accepting or disposing of property] of the Act in relation to a failure to accept or pursue income, assets or other means of support referred to in section 14 (1) (a) of the Act, the amount of a reduction is \$100 for each calendar month for each applicant or recipient in the family unit and the period of the reduction is

- (a) if the income, assets or other means of support are still available, until the failure is remedied, and
- (b) if the income, assets or other means of support are no longer available, for one calendar month for each \$2 000 of the value of the forgone income, assets or other means of support.

(2) For a family unit that is declared ineligible under section 14 (3) (b) of the Act for income assistance or hardship assistance because an applicant or recipient in the family unit failed to accept or pursue income, assets or other means of support referred to in section 14 (1) (a) of the Act, the period of ineligibility is,

- (a) if the income, assets or other means of support are still available when the declaration is made, until the

failure is remedied, and

(b) if the income, assets or other means of support are no longer available when the declaration is made, one calendar month for each \$2 000 of the value of the forgone income, assets or other means of support.

(3) For the purposes of section 14 (3) (a) of the Act in relation to the family unit of an applicant or recipient who has disposed of real or personal property for consideration that, in the minister's opinion, is inadequate,

(a) the amount of the reduction is \$100 for each calendar month for each applicant or recipient in the family unit, and

(b) the period of the reduction is one calendar month for each \$2 000 of the value of the forgone consideration.

(4) For the purposes of section 14 (3) (b) of the Act in relation to the family unit of an applicant or recipient who has disposed of real or personal property for consideration that, in the minister's opinion, is inadequate, the period of the ineligibility is one calendar month for each \$2 000 of the value of the forgone consideration.

(5) For the purposes of section 14 (2) (a) of the Act, the period of ineligibility is 2 calendar months for each \$2 000 of the value of the real or personal property that was disposed of to reduce assets.

The ministry argues that the appellant began the process to apply for assistance on July 24, 2015 and upon review of the appellant's bank statement, it was noted that on July 20, 2015, the appellant received approximately \$10,000 child tax benefit into his bank account and that same day transferred \$6,700 to another bank account. The appellant advised the ministry that the money was a loan from a friend who lent him money over a period of time when he had not been receiving the child tax benefit. As of August 7, 2015, the appellant had not provided any information regarding the loan from his friend, so the ministry concluded that the appellant disposed of cash assets in order to reduce his assets to be eligible for assistance.

The appellant argues that since his accident, he cannot work, must live and support his daughter. He states that he had dental and car expenses and as he did not have money, he had to borrow from friends. The appellant indicates that he did not have any record of these loans as his culture is trusting and they don't write things down. The appellant argues that the child tax benefit of approximately \$10,000 was owed to him and because he didn't receive it, he had to borrow money.

The panel acknowledges that as a result of a motor vehicle accident in June 2015, the appellant has been off work and states he has had to borrow money to meet his expenses. Both the appellant and the ministry state that meeting the basic immediate needs of the appellant's family is the priority. The panel notes that on July 20, 2015, the appellant received approximately \$10,000 and that same day he transferred \$6,700 to another bank account. The appellant has testified that this other bank account belonged to a friend and the matter is private. While the appellant has submitted many documents to justify his expenditures, the panel notes that the majority occurred prior to his injuries and the panel finds that there is no documentary evidence to support the appellant's testimony about paying back money borrowed. Further, the panel notes that the appellant did not dispute the ministry's statement on record that he had transferred money both ways between his declared bank account and the alleged third party account, as needed.

The panel finds that the ministry reasonably determined that in its opinion this disposal of property was inadequate under Section 14 (1)(b) of the EAA and reasonably concluded that the appellant has disposed of cash assets to reduce his assets for the purpose of making him eligible for income assistance pursuant to Section 14(2)(a) of the EAR.

The panel also finds that the ministry reasonably determined that the appellant was not eligible for assistance for a prescribed period of 2 calendar months for every \$2,000 of the \$6,700 he disposed of from his bank account to reduce his assets prior to applying for assistance pursuant to Section 31(5) of the EAR.

Therefore, the panel confirms the ministry's reconsideration decision as being reasonably supported by the evidence.