



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry)'s reconsideration decision dated August 20, 2015, which found that the appellant was not eligible to receive income assistance because she is enrolled as a full-time student in a funded program in accordance with section 16 of the Employment and Assistance Regulation.

PART D – Relevant Legislation

The relevant legislation is sections 1 and 16 of the Employment and Assistance Regulation (EAR) and section 2 of the Canada Student Financial Assistance Regulations (CSFAR).

PART E – Summary of Facts

The appellant did not attend the hearing. The Tribunal confirmed that the appellant was properly notified of the time and place of the hearing and proceeded with the hearing in accordance with section 86(b) of the EAR.

The appellant is a single parent with two children.

Student Loan Data Match tapes indicated the appellant was enrolled as a full time student from March 2015 to December 2015 and had received a student loan to attend the program. The appellant did not inform the ministry that she was attending college or that she had received a student loan.

On August 6, 2015 the ministry advised the appellant that she was not eligible for income assistance because she was enrolled in full-time studies in a funded program.

PART F – Reasons for Panel Decision

The issue under appeal is the whether the ministry's reconsideration decision which found that the appellant was not eligible to receive income assistance because she is enrolled as a full-time student in a funded program in accordance with section 16 of the Employment and Assistance Regulation is reasonably supported by the evidence or a reasonable application of the legislation.

The relevant legislation is sections 1 and 16 of the EAR and section 2 of the CSFAR.

Definitions

1 (1) In this regulation:

...

"full-time student" has the same meaning as in the Canada Student Financial Assistance Regulations (Canada);

"funded program of studies" means a program of studies for which student financial assistance may be provided to a student enrolled in it;

Effect of family unit including full-time student

16 (1) Subject to subsection (1.1), a family unit is not eligible for income assistance for the period described in subsection (2) if an applicant or a recipient is enrolled as a full-time student:

- (a) in a funded program of studies, or
- (b) in an unfunded program of studies without the prior approval of the minister.

...

(2) The period referred to in subsection (1)

- (a) extends from the first day of the month following the month in which classes commence and continues until the last day of the month in which exams in the relevant program of studies are held, and
- (b) is not longer than one year.

Section 2

Definitions

"financial assistance" means any form of financial aid provided under the Act, including student loans;

In her reasons for appeal, the appellant lists a number of considerations. These include:

- That she is not a full-time student but an online student and so can work full time,
- That she was not aware that the student loan would make her ineligible for income assistance,
- That the grant she received through student loan program went directly to the school to pay for tuition and books, that this program will allow her to become independent,
- That she requires expensive heart drugs which she cannot now afford,
- That her children are starting school and she will have no money for school supplies,
- That without assistance she will be unable to pay her rent,
- That she has two upcoming job interviews,
- That her only choice may be to quit school in order to requalify for income assistance.

The ministry's position at the hearing was that the legislation is very clear. A person who is attending full-time studies in a course which is eligible for funding becomes ineligible for income assistance in



the month following the beginning of the course until the month following the end of the course. In this case the appellant is attending a funded course which began in March, 2015 and ends in December 2015 making her ineligible for income assistance for that period.

The panel finds that the legislation in this instance is clear. The appellant is attending a full-time course of studies from March 2015 to December 2015 for which she has received funding. While the panel acknowledges the appellant's extenuating circumstances, according to the legislation she is not eligible for income assistance while attending this program.

The panel concludes that the ministry's determination that the appellant is not eligible for income assistance was a reasonable interpretation of the legislation in the circumstances and confirms the ministry's decision.