



PART C – Decision under Appeal

The decision under appeal is the October 19, 2015 decision of the Ministry of Social Development and Social Innovation (the Ministry) in which the Ministry determined the Appellant's family unit was not eligible to receive repayable hardship assistance for the month of September 2015 because it did not meet the hardship eligibility criteria. Specifically the Ministry determined the excess income that caused the family unit to be ineligible for income assistance (IA) could reasonably be expected to be used to meet the family unit's basic needs, as outlined in Section 44(d) of the Employment and Assistance Regulation.

PART D – Relevant Legislation

Employment and Assistance Act (EAA), Section 5
Employment and Assistance Regulation (EAR) , Sections 39 - 47.2

PART E – Summary of Facts

The evidence before the Ministry at the time of reconsideration included the following:

- A deposit transaction from the partner's employer dated June 6, 2015 for \$3,246.20.
- A cheque stub from the partner's employer written paid June 7, 2015 for \$1,280 net.
- A cheque stub from the partner's employer stamped paid July 7, 2015 for \$2,413.60 net.
- A deposit transaction from the partner's employer dated July 22, 2015 for \$1,793.10.
- A cheque stub from the partner's employer stamped paid August 8, 2015 for \$1,108.06 net.
- An injury eligibility claim form dated July 23, 2015.
- The Appellant's bank account activity historical details for the months of July, August and part of September 2015.
- A submission from the Appellant's Advocate which states that the Appellant's family is facing homelessness if hardship assistance is not provided. Furthermore the family has had to sell some of the children's toys and recreation equipment to survive. The family unit includes 3 children. The Appellant's partner and father of the children is appealing an employment insurance decision for funds owed due to a work place accident. The Advocate states the family received from the father a work payment of \$1,108 on August 8, 2015 and the Appellant receives \$1,005 per month in child tax benefits. Their rent was \$900 in arrears in August and \$1,100 in arrears in September.
- An excerpt from a judicial review of a 2009 tribunal decision from which the Advocates states particular attention should be placed on the statement: "Significant weight must be placed on the evidence of the applicant, unless there is a legitimate reason not to do so."

The Appellant has been in receipt of IA for her family unit which includes herself, her partner and 3 dependent children, since May 2014. Her monthly assistance rate is \$750 for shelter and \$401.06 for support (total is \$1,151.06).

Her partner secured employment as of June 8, 2015 and was injured on the job on July 17, 2015. The Ministry determined the family unit was ineligible for IA in September because of his July earnings and eligible for a small top-up only in October because of August earnings. The July income for the family unit was \$4206.70. The Ministry also determined the family unit was ineligible for hardship assistance in September.

At the hearing the Appellant stated that her family is still waiting for an appeal with the employment insurer for the retroactive payment of wages for her partner from the date of his accident in July 2015 to his scheduled surgery on his knee on November 30, 2015. She says that she has confirmation that the insurer will pay her partner benefits from the date of his surgery until his recovery.

The Appellant explained her partner had been in and out of hospital for three weeks during the end of July and August for a serious health condition unrelated to his work place accident. This situation added stress to the family during the months of July and August.

At the hearing the Appellant also had a notice to vacate dated October 20, 2015 that was effective on October 22, 2015. The Appellant stated the notice had not yet been acted upon and further action was dependent on whether her landlord would accept the commitment of a payment plan of back rent owing once the Appellant family unit begins to receive her partner's benefits from the employment insurer.

Upon questioning, the Appellant confirmed the amounts received from her partner's employer for the months of July and August, that she continues to receive child tax benefits and that the family is again receiving income assistance.

The Appellant explained that in order for her partner to be able to accept his employment offer in June he needed a working vehicle and that it took approximately \$4,000 to repair their truck during June and July. She explained that these vehicle expenses and work license transfers were essential for his employment. She stated that she had brought to the Ministry office an envelope of receipts of various expenses sometime soon after she brought in copies of her bank statements and that the Ministry worker had made a photocopy of them at that time.

At the hearing the Ministry representative reviewed the fact that Appellant had more monthly income from her partner's work in the months leading up to September than what she receives in IA and that the family had not put aside any for rent. Upon questioning, the Ministry representative stated that there was no record of the receipts for truck expenses or other items in the reconsideration decision or in the Appellant's file, which she had reviewed before the appeal hearing.

New Evidence:

The Appellant orally reported the following evidence at the hearing:

- The Appellant's partner was hospitalized on and off for three weeks for another non related condition after his work place accident.
- The Appellant received a notice to vacate on October 20, 2015.
- The Appellant and her family had expenses at approximately \$4,000 for vehicle expenses during June and July.

The Panel admits the evidence under EAA, Section 22(4)(b) that the Appellant's partner was hospitalized after the work place accident as corroborating information regarding the family unit's circumstances during July and August.

The Panel finds the notice to vacate supports the argument of the danger of homelessness that was before the Ministry at the time of the reconsideration and admits the notice as evidence substantiating the information at reconsideration under EAA, Section 22(4)(b).

The Panel does not accept the oral evidence of the Appellant regarding vehicle expenses because it was not before the Ministry at time of the reconsideration decision and therefore is not admissible as evidence in support under EAA, Section 22(4)(b).

PART F – Reasons for Panel Decision

The issue on this appeal is whether the Ministry reasonably determined the Appellant's family unit was not eligible for repayable hardship assistance for the month of September 2015 because the income that caused the family unit to be ineligible for IA could reasonably be expected to be used to meet the family unit's basic needs, as outlined in Section 44(d) of the Employment and Assistance Regulation.

The following legislation applies to this appeal:

EAR Section 44

The minister may provide hardship assistance to a family unit that is not eligible for income assistance because the income of the family unit exceeds the limit under section 10 [limits on income] if

(d) the income that causes the family unit to be ineligible for income assistance could not, in the minister's opinion, reasonably be expected to be used to meet the family unit's basic needs.

The Appellant argues that severe undue hardship will occur because the family is facing homelessness if hardship assistance is not provided. Furthermore the work place accident is the reason the family finds themselves in this economic hardship.

The Appellant also argues her family had vehicle expenses that were necessary for her partner's employment and that their inability to pay the rent owing for the part of August and September is threatening her family with homelessness.

The Ministry argues that based on the provided bank statements, the family unit received an additional \$2,900 in income (on July 22 and August 7) after the July 17 work place accident, yet did not pay rent for August or September. The Ministry notes that none of the \$2413 earnings received on July 7 was put aside for rent and that the bank statements show expenses for non essential items such as eating out and liquor purchases. The Ministry also states the funds earned were significantly more than the Appellant's monthly support and it is unclear why the funds could not have been used to meet basic needs for food and shelter for August and September.

Panel Reasons:

The Panel finds the income for the family unit was approximately \$2,900 from the partner's employer after the Appellant's work place accident in mid July through mid August. This amount received exceeds the monthly income assistance the Appellant would be eligible to receive for the same period. The evidence also showed discretionary spending on non essential items during this time. Based upon the evidence before the Ministry at the time of reconsideration, the Panel finds the Ministry reasonably determined that part of that income could reasonably be used for shelter costs.

Accordingly, the Panel finds the Ministry's determination that the Appellant was not eligible for repayable hardship assistance for the month of September 2015 because the excess income that caused the family unit to be ineligible for IA could reasonably be expected to be used to meet the



family unit's basic needs, as outlined in Section 44(d) of the Employment and Assistance Regulations. The Panel therefore confirms the Ministry's decision.