



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of January 12, 2016 which held that the Appellant was ineligible for income assistance because he did not provide all of the information requested by the ministry under section 10(1) and 10(4) of the Employment and Assistance Act (EAA) so that his eligibility for income assistance could be determined; and, that will be ineligible for income assistance until he complies with the Ministry’s direction as set out in section 32(1) Employment and Assistance Regulation (EAR).

PART D – Relevant Legislation

EAA – section 10
EAR – section 32

PART E – Summary of Facts

The ministry did not attend the hearing. The panel being satisfied the ministry had been notified of the date and time of the hearing, the hearing proceeded under section 86(b) EAR.

The evidence before the ministry at the time of reconsideration:

- Application for Income Assistance, Part 1, dated December 8, 2015 and signed by appellant;
- Application for Income Assistance, Part 2, dated December 8, 2015 and signed by appellant and under “ADD PROPERTY” the appellant indicates a property in another country (“Country1”) with a value over CAN\$200,000, with the applicant/appellant as the owner.;
- Copy of a real estate listing in Country1 showing a sales date range from September 4, 2015 to October 21, advertising a home for sale for over \$200,000 (CDN), including 3 pages attached titled property notes; the Title Page – Your Property Report has a note “I paid \$275,000 in 2009” with appellant’s signature underneath the note;
- Copy of a Canadian bank statement for the period of October 30, 2015 to November 4, 2015 showing the account was opened on October 30, 2015.
- Ministry form for Application for Direct Deposit Request dated November 13, 2015;
- Shelter Information form dated November 12, 2015 completed by appellant showing his place of residence and his shelter costs – shared accommodation, room only, his share \$200.00;
- Two Year Independence Assessment form dated December 7, 2015;
- Medical Services Plan release form dated December 8, 2015 and signed by appellant;
- Letter dated December 9, 2015 from the appellant to a bank (Bank1) in Country 1. The subject of letter is Surrender of Property; the property in the letter is not identified by Certificate of Title Volume & Folio but the address appears the same as that on the real estate listing; the letter also states, “ I/We advise that the property is vacant/will be vacant on date (please adjust accordingly)”. The letter provides the appellant’s new address and phone number. The letter is not witnessed or notarized.
- Request for Reconsideration dated January 4, 2016. On the form the appellant stated that he is a Canadian citizen, still unemployed and has recently surrendered ownership to his foreign property. He advises he has enclosed the documents pertaining to surrender of his property and that the bank in Country 1 informed him the foreclosure date was October 22, 2015.

On October 30, 2015 the appellant had applied on line for income assistance declaring \$20.12 in his bank account; that he was born in Canada; moved back to BC in September 2015 from Country 1 and has been financially independent for at least 2 years.

On November 9, 2015 the ministry provided the appellant with an Information/Documentation check list requesting that the documents that pertain to him be submitted to the ministry by November 17.

On November 16, 2015 the ministry completed the Stage 2 interview with the appellant. The appellant told the ministry he had lived in Country1 for the past 10 years; had been working there but had knee surgery so could not work; had a house that he had signed to a law firm, and has been back in Canada for two months. The ministry advised the appellant to submit several documents within 5 business days. :

- 3 week work search;
- Identification (SIN);
- Declaration of 2 year independence, and
- Paperwork from Country1 regarding the sale of his property for sale.

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- Account information on his other account(s) held at Bank2 in Country1.

On December 1, 2015 the appellant contacted the ministry about his application. The ministry advised the appellant that he still needed to submit the outstanding requested information. The appellant advised the ministry he could not get the foreclosure information. The ministry advised the appellant to have the lawyer or bank, in Country1, fax the information from that point.

The appellant met with a ministry outreach worker at a clinic and the appellant stated his property in Country1 had not been foreclosed upon and that he had been given some extra time to sell it; that the property was listed below the mortgage he owed.

On December 3, 2015 the ministry spoke with the appellant by phone. The appellant stated he did his banking at one financial institution (Bank2) and his mortgage was held at another (Bank1). The ministry requested bank profiles and account statements for each bank from Country1. The appellant replied that that would be difficult. The ministry provided the appellant with the phone numbers to the financial institutions and informed the appellant that additional contact information including email is online. The ministry advised the appellant that the requested banking and mortgage information from Country1 was required to determine his eligibility for income assistance.

On December 7, 2015 the ministry received a message from the outreach worker advising the appellant would not be submitting documents to confirm the amount owing on his mortgage or the bank information from his accounts in Country1. On this date the ministry found the appellant's online property listing advertising the appellant's house for sale for offers over \$250,000.

At the hearing the appellant stated that he did not comply with the ministry's request because he had a hard time putting the documents together and that he had forgotten all the codes – account numbers of his bank accounts in Country1. The appellant stated that his mortgage was held at Bank1 and that he only had one other account, a savings account which had no funds, and that account was held at Bank2. The appellant told the panel he left all his paper work back in Country1 and although there was someone living at his residence in Country1, when he moved out, he has not been able to contact them. The appellant also stated that he had not tried to call either financial institution to request the necessary information. The appellant's father testified that he had contacted a "friend of a friend" to act as a Power of Attorney, but had not heard back from that person.

In response to questions from the panel the appellant stated:

- when he left Country1 his mortgage was 10 months in arrears; that Bank1 had started to take action against him and the property;
- he left all his personal belongings in his home in Country1;
- he is in the process to trying to contact both banks to get the information required and he needs a couple more weeks.

The panel admitted the appellant's testimony, which either substantiated or further explained information already before the ministry, as being in support of the information and records before the ministry at reconsideration in accordance with section 22(4) of the Employment and Assistance Act.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration decision of January 12, 2016 which held that the Appellant was ineligible for income assistance because he did not provide all of the information requested by the ministry under section 10(1) and 10(4) of the EAA so that his eligibility for income assistance could be determined; and, that will be ineligible for income assistance until he complies with the ministry's direction as set out in section 32(1) EAR.

The legislation considered:

EAA - Information and verification

Section 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,
 - (b) determining or auditing eligibility for income assistance, hardship assistance or a supplement,
 - (c) 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.

(3) 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.

EAR - Consequences of failing to provide information or verification when directed

Section 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.

Ministry's Position

In the reconsideration decision the ministry argued the letter to the bank, Bank1, who holds the mortgage on the appellant's home in Country1, does not establish the equity in the home or that the property owned by the appellant has been surrendered. The ministry argued there is also no evidence that the letter sent to Bank1 was received and/or accepted by the bank. The ministry argued that income assistance is asset tested and the ministry requires the information on the appellant's property and the information from his financial records in Bank2 in Country1 for the purpose of determining his eligibility for assistance.

The ministry argued that the according to section 10(1) of the EAA, the ministry can choose both the

timeframe and the type of information to verify eligibility for assistance, and that in this case, the amount of time allowed for the appellant to respond was reasonable and the type of information requested was information that is routinely requested in order to determine eligibility. As a result, the ministry argues that it was reasonable to determine that the appellant was ineligible for income assistance as set out in section 10(4) EAA and, as a result, will be ineligible for assistance until he complies with the ministry's request as stated in section 32(1) EAR.

Appellant's Position

The appellant's position is that he has had a hard time putting the financial documents together as he left all his papers back in Country1 and he has forgotten his account numbers. The appellant argued that he provided a letter that he sent to Bank1 to the ministry as proof of the surrender of his property. The appellant argued he needed a couple more weeks to obtain the information that the ministry wanted.

Panel Decision

The evidence is that initially the appellant did not disclose his property in Country1 which has a market value of approximately \$250,000 and that Bank1 held the mortgage on the property. The ministry requested the appellant provide information demonstrating his equity in the property for the purposes of determining his eligibility for assistance. The appellant relied on a letter he sent to Bank1 regarding the surrendering his property to demonstrate he no longer had interest in that property. The panel noted the letter was not witnessed nor was it notarized and the appellant did not provide any further evidence that his letter to Bank1 was received and acted upon. The ministry did not accept the appellant's letter to Bank1 and requested that he provide further information to demonstrate he no longer had interest in that property. The panel finds the evidence supports the ministry's position that the appellant's letter does not establish the appellant's equity in his property in Country1 or that the property was surrendered and without further information from Bank1 the ministry cannot determine the appellant's eligibility with regards to his asset level.

The evidence is that the appellant also had a savings account which was held in Bank2 and he told the panel there were no funds in this account. The ministry had requested that he also provide the financial records from Bank2 however the appellant testified that would be difficult because he could not remember his account number information and had left all these records back at the house in Country1. The ministry provided the appellant with contact information for Bank1 and Bank2 and suggested he also search the internet to obtain further information to assist him in obtaining the information. The ministry advised the appellant that both banks have online/internet banking and direct email contact. The appellant testified that he did not attempt to contact either bank to obtain the information; that he did not search the internet for bank contact information; and did not seek out any other advice on how to obtain the requested information. The appellant testified that he did try to call his friend who was living in the appellant's home in Country1 but could not reach him and the appellant's father testified that he had contacted a "friend of a friend" to act as a Power of Attorney, but had not heard back from that person. Although the appellant argued there were barriers, i.e. couldn't remember his account numbers, couldn't contact his friend, that prevented him from providing the information to the ministry, the panel finds he did not provide the information the ministry requested.

Conclusion:

The panel finds that the ministry's request for information to determine and verify the appellant's

eligibility for income assistance under section 10(1) of the EAA was a reasonable application of the legislation in the circumstances of the appellant. The panel finds the appellant did not comply with the ministry's direction.

The panel also finds that the ministry's determination that the appellant will remain ineligible for income assistance until he complies with the ministry's direction under section 32(1) of the EAR was a reasonable application of the legislation.

Therefore, the panel finds that the ministry's reconsideration decision based on the evidence was a reasonable application of the legislation and confirms the Ministry's decision.