

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation’s (the ministry) reconsideration decision dated April 14, 2016, which found that the appellant was not eligible for disability assistance as a sole recipient because her relationship with her friend (the “Friend”) met the meaning of “spouse” as defined in section 1.1(2) of the *Employment and Assistance for Persons with Disabilities Act* (EAPWDA). In particular the ministry found that the appellant and the Friend’s relationship demonstrates financial interdependence and a social and familial interdependence consistent with a marriage-like relationship.

PART D – Relevant Legislation

EAPWDA sections 1 and 1.1

PART E – Summary of Facts

The information before the ministry at the time of reconsideration included the following:

- Printout of ministry assignments and agreements list for the appellant dated December 23, 1997 to February 22, 2016
- Consent to Disclosure of Information dated June 22, 2015 signed by the appellant authorizing disclosure of information relevant to the determination of disability assistance to the Friend
- Letter from the appellant to the ministry dated February 2, 2016 authorizing the Friend to speak on her behalf
- Bank statements January 1 to March 31, 2016 regarding the appellant's individual bank account
- Close Account Information dated March 17, 2016 indicating that the appellant and the Friend's joint bank account opened August 31, 2015 was closed on March 17, 2016
- Consent to Disclosure of Information dated March 17, 2016 signed by the appellant authorizing disclosure of information relevant to the determination of income assistance, disability assistance and supplements to the Friend
- Letter from the Friend to the ministry dated March 18, 2016 stating that he is a single male who is not in a common law relationship with the appellant and that he has been the appellant's caregiver for 18 years
- Request for Reconsideration dated April 8, 2016 in which the appellant states that she is a single female, is not in a common law relationship with the Friend and that the Friend is her caregiver

Additional Information

In her Notice of Appeal signed and dated April 19, 2016 the appellant states that she is single and is not in a common law relationship.

The appellant provided a submission dated April 22, 2016 (Submission 1) regarding the status of her relationship with the Friend and information regarding requests for other items including medical equipment and medical transportation funds. The submission included the following:

- Letter from a jewelry store dated April 21, 2016 indicating that the Friend has been the appellant's representative relating to loans and loan payments since July 17, 2008 while the appellant has been in the Friend's care (the "Jewelry Store Letter").
- Copy of the Reconsideration Decision with handwritten notes indicating that the Friend has not referred to the appellant as his girlfriend or fiancée
- Ministry statement of account printed March 18, 2016 relating to the appellant's financial information from December 23, 1997 to March 18, 2016

The appellant provided a letter from the Friend dated May 7, 2016 (Submission 2) regarding communications with the ministry over several years and information regarding requests for the appellant's medical equipment, stating he and the appellant are single and that what the ministry has put them through is unfair and cold-blooded (5 pages).

The appellant provided a submission dated May 11, 2016, 28 pages (Submission 3) that included the following:

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- Newspaper article regarding the appellant's living situation with the Friend
 - Appellant's financial and medical information
 - Information regarding the Friend's physical condition, request for medical transportation and quotes for medical equipment
 - Copy of Ministry statement of account printed March 18, 2016 relating to the appellant's financial information from December 23, 1997 to March 18, 2016
 - Letter from the Friend dated April 4, 2016 stating that he refuses to be blackmailed by the ministry into a common law relationship with the appellant after the ministry has accepted that he has been a caregiver to the appellant for the last 15 years
 - Handwritten information regarding the appellant and the Friend's living situation
 - The Friend's letter dated April 20, 2016 indicating that if the Tribunal chooses in the ministry's favor then he is requesting that the appellant be placed in assisted living as he will no longer assist her
 - The Friend's letter dated April 20, 2016 with petition
 - The Friend's resume

The appellant provided a submission dated May 12, 2016 (Submission 4) that included pictures of herself and a note indicating that the ministry denied her \$20 one day but approved it another date.

The appellant provided a submission with a stamp indicating it was received May 12, 2016, 166 pages (Submission 5) that included the following:

- Letter from the appellant dated June 1, 1998 authorizing the Friend to pick up her cheque and dental form because she was sick
- Ministry note dated October 5, 1998 indicating that the appellant asked the ministry representative to speak to the Friend, whom she referred to as her fiancée
- Joint rent and damage deposit receipts for the appellant and the Friend dated November 24, 1999
- The appellant's income tax return information for tax year 2000 indicating that her marital status was single
- The appellant's rent receipt dated November 29, 2001
- Joint rent receipt for the appellant and the Friend dated November 1, 2002
- Newspaper articles regarding the appellant's living situation with the Friend and the appellant's medical condition
- Various documentation regarding the appellant's financial and medical information
- Communications between the ministry, appellant and Friend regarding prior requests for assistance
- The appellant's rent receipt dated November 29, 2001
- The appellant's rent receipt dated November 30, 2002
- Rent receipts for the appellant and the Friend dated November 30 and December, 2002 for the month of December 2002
- Verification of Residence dated December 11, 2002, rent receipt dated November 30, 2002 and tenancy agreement indicating that the appellant and the Friend were tenants at a residence effective December 1, 2002 and noting that the Friend is a caregiver
- Ministry notes dated 2003/3/5 indicating that the appellant has complaints about her disability status and wants to refute claims that she is living common law with the appellant
- The appellant's rent receipt dated February 1, 2003

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- Excerpt from a physician's report dated 00/02/09 referring to the Friend as the appellant's boyfriend on which the appellant or the Friend has crossed out the word boyfriend and notes caregiver
 - Letter from the Friend dated April 4, 2016 requesting medical transportation funding
 - Letter from another friend dated April 7, 2016 indicating that she has known the appellant and the Friend for around 10 years and has never known them to be a couple (the "Support Letter"). The author of this letter indicates that she knows that the Friend helps out the appellant by ensuring she gets to her doctor's appointments and that she has everything done around the house
 - Letter from the Friend dated April 7, 2016 in which he states that the ministry is blackmailing him into a reduction of \$200 per month and that he will be on the streets as of April 20, 2016

The appellant provided a submission dated May 13, 2016 (Submission 6) with a letter from the Friend with his telephone bill dated May 4, 2016.

The appellant provided a submission dated May 13, 2016, 381 pages (Submission 7) that included the following:

- Ministry File Profile printed June 2, 1997 regarding a female whom the Friend referred to as his previous client
- Requests for care giving costs
- Documentation regarding the appellant's financial information and medical condition
- The Friend's rent receipt for December 2001
- Ministry History Report dated December 14, 2000 noting allegation that the Friend was living with his spouse with the Friend's handwritten note dated May 12, 2016 stating that he is a caregiver not common law
- Letter from a bank to a community resource provider stating that the account for the appellant and the friend was closed on February 18, 2003
- Note from a bank dated May 26, 2003 regarding the Friend's bank account number
- Various documentation regarding the Friend's medical conditions and requests for medical equipment and diet allowance
- Letter from an occupational therapist, undated with stamp date received by the ministry on March 10, 2006 indicating that the appellant has multiple medical issues and that she lives outside of town in a 24' recreational vehicle with her caregiver, the Friend. The occupational therapist noted that the living space consisted of a bed, small washroom, stovetop burners and fold down kitchen settee. The occupational therapist recommended that she be provided with a scooter.
- Intent to Rent dated June 2, 2005 and tenancy agreement signed by the appellant, the Friend and the landlord dated August 26, 2005
- Quote from a store dated August 24, 2005 to the appellant and the Friend for various pieces of furniture stating "package deal for 2 people"
- Release of Personal Information signed by the Friend on June 22, 2005 authorizing the ministry to release his personal information to the appellant
- Release of Information and letter dated January 19, 2006 signed by the appellant indicating that the ministry can release her personal information and cheque to the Friend
- The Friend's rent receipt dated December 20, 2006 indicating his portion of shared rent
- The appellant's rent receipt dated December 20, 2006 indicating her portion of shared rent
- Ministry note, undated indicating that the appellant needed an assessment as the last one was

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in 2005. The ministry notes that the Friend often “overpowers” the appellant’s conversation in his attempts to advocate

- Appellant’s Bank Profile dated January 11, 2007 indicating that the appellant had an individual, not joint, bank account
- The Friend’s Notice of Appeal dated October 19, 2009 in which he states that he requires funds for single living with handwritten notes indicating that his caregiving fund was denied, that he works for free for 18 years helping the appellant who is his “client”
- Letter from the ministry to the Friend dated December 19, 2010 confirming that the appellant provided a signed Release of Information allowing the Friend to access information on the appellant’s file
- Bank note dated February 20, 2013 indicating that the appellant’s marital status is single
- Letter from the appellant dated January 19, 2016 authorizing the Friend, her “house mate” to pick up her cheque and food voucher
- Rent receipts for the appellant and the Friend for March and April 2016
- Note from the Friend dated May 13, 2016 indicating that he is not in a common law relationship with the appellant and that she will be devastated to be on her own if he has to move out

The appellant provided a submission dated May 16, 2016, 69 pages (Submission 8) including

- Ministry History Report October 1998 indicating queries regarding the appellant’s relationship status (“History Report”)
- Newspaper article dated August 14, 2007 regarding the Friend’s dispute with the ministry over his transportation allowance and the ministry’s denial of the appellant’s transportation supplement
- Handwritten rent receipts dated January 15 and 23, 2008 for the appellant and the Friend
- The Friend’s list of budget payments for May 25, 2016 funds
- Copies of rent receipts for the appellant and the Friend dated March and April 2016
- Letter from the Premier to the Friend dated February 25, 2010 responding to his letter regarding his relationship with the appellant and a tribunal decision relating to that issue
- Joint rent receipts for the appellant and the Friend dated March 24, 2016
- Friend’s Shelter information dated May 16, 2016
- Documents regarding the Friend’s medical conditions, prior medical conditions, and prior appeals
- The Friend’s letter dated May 14, 2016 stating that he is single, is not in a common law relationship with the appellant, and that he is now faced with losing his client whose condition is worsening day by day due to ministry denials and placing her under unnecessary stress which has been affecting her physical and mental health condition over several years
- The Friend’s Shelter Information form dated May 16 2016, incomplete

The appellant provided a submission May 18, 2016, 32 pages (Submission 9) that included the following:

- Letter from the Friend’s occupational therapist dated April 6, 2011
- Communications between the ministry and third party administrator and letter to the Friend dated July 17, 2007 regarding ongoing third party administration
- Application for transportation subsidy dated May 18, 2016
- The Friend’s request dated May 18, 2016 for medical marijuana coverage for back pain
- Appellant’s letter dated May 18, 2017 (which is presumed to be a typographical error and

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should read May 18, 2016) requesting medical transportation with transportation supplement letter and request for reconsideration

At the hearing the appellant stated that she immigrated to Canada from another country and has difficulties with the English language in addition to her physical and mental disabilities. The appellant stated that she trusted someone else and the situation went very poorly and it is hard for her to trust people but she trusts the Friend who has helped her for many years. The appellant states that she has asthma, takes a blood thinner medication, is borderline diabetic, has bipolar disorder and needs help to get to and from community resources, and that she does not pay the Friend because she does not have the funds to pay him. The appellant stated that she and the Friend had a joint bank account because their landlord required them to pay rent together and when they moved to another part of the province and did not need the joint bank account any longer they closed the account. The appellant stated that she and the Friend have been roommates for years, but the ministry assumes they are a couple. The appellant states that she might have referred to the Friend as her boyfriend in the past but in using that term she simply meant her male friend, not a partner. She and the appellant spend Christmases together and share meals but she has other female friends that she socializes with on her own. The appellant stated that she came to Canada hoping for a better life but the difficulties she is having with the ministry are causing her a lot of stress.

At the hearing the Friend questioned what proof the ministry had that he and the appellant were in a common law relationship. He stated that the appellant files her taxes as a single person and that the ministry has recognized her as single in the past because she is single. He states that there is no sexual relationship between he and the appellant, that he is her caregiver and has been for the last 18 years, that he does it to help her and that he does not get paid. The Friend stated that they live together and share rent, bills and food, because it is expensive to live individually on the amount received from the ministry. The Friend states that they had a joint bank account because their landlord at the time lived in another city and required them to pay rent together. The Friend stated that while he understands that the ministry has to conduct reviews from time to time, his relationship with the appellant has not changed in over 15 years, a prior tribunal found in their favor as not being in a spousal relationship and that nothing has changed since that time, so the ministry should accept that they are single, not a couple.

The Friend stated that he provides volunteer caregiving services to the Friend for which he is not paid such as helping her with personal care, cleaning the bathroom, opening cans, changing her bed, helping her get her scooter on and off the bus, helping with meal preparation, and helping her get to painting and pottery at a community center. The Friend also stated that the appellant's nurse practitioner recommended that the appellant have an escort "24/7". The Friend acknowledged that there was no documentation from the appellant's nurse practitioner or physician indicating that the appellant requires constant care but advised that it was verbally recommended to them. The Friend stated that although he does not get paid, he has had two prior clients in the past to whom he provided caregiving services to, so the ministry has and should continue to accept that he is the appellant's caregiver. When questioned by the ministry as to why the Friend has not pursued caregiving as a career if he provides so many services to the appellant for free, the Friend stated that his own disability prevents him from working.

The Friend stated that he and the appellant go to church together and that he has taken the appellant fishing on a few occasions too.

The Friend stated that he helps the appellant with household tasks, colors her hair, opens cans for her as she has difficulties with her hands, loads her scooter on the bus, does her laundry, does housework, and watches over her for her safety. He also takes her to the pool and they attend church together. The appellant states that they work as a team. The appellant states that he does not have another girlfriend but he has a female companion who comes to visit, who can verify that he is single. The appellant states that he and the Friend have had joint bank accounts together in order to pay their rent to their landlords, but those are now closed down.

The Friend stated that he will be homeless as of today and will have to move his belongings into storage and leave the Friend stranded on her own.

At the hearing, the ministry representative relied on the reconsideration decision. The ministry representative also stated that the ministry has addressed the issue of dependency a number of times in the past and that although the appellant and the Friend were previously accepted as single, the information now establishes that there is financial interdependence and social and familial interdependence consistent with a marriage-like relationship. The ministry representative also stated that the appellant and the Friend were still receiving the shelter portion of their disability assistance.

Admissibility of New Information

The ministry representative stated that the ministry did not object to the admission of the appellant's nine submissions but takes the position that little of the new information is relevant to the issue of dependency.

The panel has admitted the information contained in the appellant's Notice of Appeal and the appellant's oral testimony and the Friend's oral testimony into evidence as it is in support of information and records that were before the ministry at the time of reconsideration, in accordance with section 22(4) of the *Employment and Assistance Act*. In particular, the new information relates to the appellant's position with respect to his living situation and relationship with the Friend.

The panel has reviewed the appellant's Submissions 1-9 (the "Submissions") and notes that some of the documents contained in the Submissions are the result of a Freedom of Information request from the ministry's files of the appellant and the Friend. The panel finds that the bulk of the information in the Submissions relates to a wide range of issues not relevant to this appeal, which are not in support of the information and records before the ministry at reconsideration, as they cannot be said that to corroborate or substantiate information in the Record of the Ministry Decision and therefore cannot be admitted as evidence (i.e., not taken into account in the panel's decision.)

From Submission 1, the panel has admitted the Jewelry Store Letter into evidence as it in support of information before ministry at the time of reconsideration as it relates to the appellant's relationship status with the Friend. The panel has accepted page one of the Friend's letter dated April 22, 2016 as argument.

From Submission 2, the panel accepts the Friend's letter dated May 7, 2016 as argument.

From Submission 3, the panel accepts the Friend's letters dated April 4, 2016 found at page 26 and

30 as argument.

The panel has not admitted the documentation from Submission 4 into evidence. Although the pictures appear to depict the appellant in a chair and in a bed they do not support the information and records that were before the ministry at the time of reconsideration.

From Submission 5, the panel has admitted the following information into evidence as it relates to the appellant and the Friend's living situation and is in support of the information before the ministry at the time of reconsideration as it relates to the appellant and Friend's living situation:

- Letter from the appellant dated June 1, 1998 authorizing the Friend to pick up her cheque and dental form because she was sick
- Ministry note dated October 5, 1998 indicating that the appellant asked the ministry representative to speak to the Friend, whom she referred to as her fiancée
- Joint rent and damage deposit receipts for the appellant and the Friend dated November 24, 1999
- Excerpt from a physician's report dated February 2, 2000 referring to the Friend as the appellant's boyfriend on which the appellant or the Friend has crossed out the word boyfriend
- The appellant's income tax return information for tax year 2000 indicating that her marital status was single
- The appellant's rent receipt dated November 29, 2001
- Joint rent receipt for the appellant and the Friend dated November 1, 2002
- The appellant's rent receipt dated November 30, 2002
- Rent receipts for the appellant and the Friend dated November 30 and December, 2002 for the month of December 2002
- Verification of Residence dated December 11, 2002, rent receipt dated November 30, 2002 and tenancy agreement indicating that the appellant and the Friend were tenants at a residence effective December 1, 2002 and noting that the Friend is a caregiver
- The appellant's rent receipt dated February 1, 2003
- Ministry notes dated March 5, 2003 indicating that the appellant has complaints about her disability status and wants to refute claims that she is living common law with the Friend
- and notes caregiver
- Support Letter

The panel accepts the Friend's letter dated April 7, 2016 as argument.

The panel has not admitted Submission 6 into evidence as the new information is not in support of information and records that were before the ministry at the time of reconsideration.

From Submission 7, the panel has admitted the following into evidence as it is in support of the information before the ministry at the time of reconsideration. In particular it relates to the appellant's living situation with the Friend:

- Ministry File Profile printed June 2, 1997 regarding a female whom the Friend referred to as his previous client
- Ministry History Report dated December 14, 2000 noting allegation that the Friend was living with his spouse with the Friend's handwritten note dated May 12, 2016 stating that he is a caregiver not common law

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- The Friend's rent receipt dated November 29, 2001
 - Letter from a bank to a community resource provider stating that the account for the appellant and the friend was closed on February 18, 2003
 - Ministry history report dated February 20, 2003 indicating that a ministry representative received information indicating that the appellant might have a dependent relationship with the Friend
 - Note from a bank dated May 26, 2003 regarding the Friend's bank account number
 - Letter from the Ombudsman to the appellant and the Friend dated January 11, 2005 regarding the ministry's handling of their files
 - Release of Personal Information signed by the Friend on June 22, 2005 authorizing the ministry to release his personal information to the appellant
 - Tenancy agreement signed by the appellant, the Friend and their landlord dated August 26, 2005
 - Quote from a store dated August 24, 2005 to the appellant and the Friend for various pieces of furniture stating "package deal for 2 people"
 - Letter from an occupational therapist, undated with stamp date received by the ministry on March 10, 2006 indicating that the appellant has multiple medical issues and that she lives outside of town in a 24' recreational vehicle with her caregiver, the Friend. The occupational therapist noted that the living space consisted of a bed, small washroom, stovetop burners and fold down kitchen settee. The occupational therapist recommended that she be provided with a scooter.
 - Intent to Rent dated June 2, 2005 and tenancy agreement signed by the appellant, the Friend and the landlord dated August 26, 2005
 - Release of Information and letter dated January 19, 2006 signed by the appellant indicating that the ministry can release her personal information and cheque to the Friend
 - The Friend's rent receipt dated December 20, 2006 indicating his portion of shared rent
 - The appellant's rent receipt dated December 20, 2006 indicating her portion of shared rent
 - Appellant's Bank Profile dated January 11, 2007 indicating that the appellant had an individual, not joint, bank account
 - The Friend's Notice of Appeal dated October 19, 2009 (the "2009 Notice of Appeal") in which he states that he requires funds for single living with handwritten notes indicating that his caregiving fund was denied, that he works for free for 18 years helping the appellant who is his "client"
 - Letter from the ministry to the Friend dated December 19, 2010 confirming that the appellant provided a signed Release of Information allowing the Friend to access information on the appellant's file
 - Bank note dated February 20, 2013 indicating that the Friend's marital status is single
 - Rent receipts for the appellant and the Friend for March and April 2016
 - Note dated May 13, 2016 indicating that the appellant is not in a common law relationship with the Friend and that the appellant will be devastated to be on her own if he has to move out

From Submission 8, the panel has admitted the following into evidence as it is in support of the information before the ministry at the time of reconsideration. In particular it relates to the appellant's living situation with the Friend

- Ministry History Report dated May 6, 1998 indicating that the Friend's "girlfriend" was offered a room in the Friend's home but that there was no "marriage-like relationship"

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- Ministry History Reports dated October 6, 1998 indicating that a ministry representative has stopped production of the Friend's monthly assistance payment pending a re-application to determine whether there is a common law relationship
 - Ministry History report dated October 8, 1998 indicating that the appellant and the Friend have at different times referred to each other as each others' fiancée
 - Copies of rent receipts indicating that the sum was received from the appellant and the Friend jointly for the months of for March and April 2016 and in equal amounts individually from each of them for the damage deposit
 - Letter from the Premier to the Friend dated February 25, 2010 responding to the Friend's letter regarding his relationship with the appellant and a tribunal decision relating to that issue
 - Joint rent receipts for the appellant and the Friend dated March 24, 2016
 - The Friend's Shelter information dated May 16, 2016, incomplete
 - Documents regarding the Friend's medical conditions and prior medical conditions and prior appeals

The panel accepts the Friend's letter dated May 14, 2016 contained in Submission 8 as argument.

The panel has not admitted Submission 9 into evidence as the new information is not in support of information and records that were before the ministry at the time of reconsideration.

PART F – Reasons for Panel Decision

The issue on this appeal is whether the ministry's decision to deny the appellant disability assistance as a sole recipient on the basis that her relationship with the Friend demonstrates financial interdependence and a social and familial interdependence consistent with a marriage-like relationship as defined by the term "spouse" set out in section 1.1(2) of the EAPWDA is reasonably supported by the evidence or is a reasonable application of the applicable enactment.

The relevant legislation is as follows:

EAPWDA

Interpretation

1 (1) In this Act:

"dependant", in relation to a person, means anyone who resides with the person and who

- (a) is the spouse of the person,
- (b) is a dependent child of the person, or
- (c) indicates a parental role for the person's dependent child;

"family unit" means an applicant or a recipient and his or her dependants;

"recipient" means the person in a family unit to or for whom disability assistance, hardship assistance or a supplement is provided under this Act for the use or benefit of someone in the family unit, and includes

- (a) the person's spouse, if the spouse is a dependant, and
- (b) the person's adult dependants;

"spouse" has the meaning in section 1.1;

Meaning of "spouse"

1.1 (1) Two persons, including persons of the same gender, are spouses of each other for the purposes of this Act if

- (a) they are married to each other, or
- (b) they acknowledge to the minister that they are residing together in a marriage-like relationship.

(2) Two persons who reside together, including persons of the same gender, are spouses

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of each other for the purposes of this Act if

- (a) they have resided together for at least
 - (i) the previous 3 consecutive months, or
 - (ii) 9 of the previous 12 months, and
- (b) the minister is satisfied that the relationship demonstrates
 - (i) financial dependence or interdependence, and
 - (ii) social and familial interdependence,consistent with a marriage-like relationship.

The appellant's position is that she is a single female, is not in a common law relationship with the Friend and that the Friend is her roommate and caregiver. The appellant's position is that she and the Friend have resided together in several locations over the last 18 years as they are good friends and it is very difficult to obtain affordable housing without a roommate so living together helps them both. The appellant and the Friend both deny ever telling the ministry that they were in a common law relationship. The appellant's position is that if she used the term "boyfriend" she meant that the Friend was her male friend. The appellant's position is that she and the Friend had joint bank accounts at different times as it worked better to pay their rent to their landlords that way with one cheque but when the joint bank account was no longer needed it was closed. The Friend states that although the ministry finds the timing of the closure of the joint bank account was suspicious it was simply coincidental that it was closed after the ministry questioned their relationship status, indicating that he and the appellant had recently moved and no longer needed the joint bank account. The appellant's position, as presented by the Friend, is that the Friend has been her caregiver for over 15 years and that their relationship has not changed in that time. The appellant also states that the ministry has, for many years, accepted that she and the Friend are not in a common law relationship and that past tribunal decisions have found in their favor regarding this issue.

The ministry's position, as set out in the reconsideration decision, is that the appellant is not eligible for disability assistance as a sole recipient because her relationship with the Friend meets the meaning of "spouse" as defined in EAPWDA section 1.1.

The reconsideration decision indicates that there is no evidence that the appellant and the Friend are married and the appellant does not acknowledge that they are residing together in a marriage-like relationship. Therefore it is the ministry's position that EAPWDA section 1.1 (1) does not apply. However, the ministry's position is that the information provided indicates that they are spouses of each other for the purposes of the EAPWDA 1.1 (2) based on:

- They have moved together 20 times in the last 18 years throughout different parts of the province.
- They recently shared a joint bank account from August 31, 2015 to March 17, 2016, in addition to the appellant's own bank account which was closed when the issue of a dependency relationship

was brought up, both having equal access to that account prior to its closure. The ministry's position is that as the appellant manages her own account, the ministry is not satisfied that the joint account was required for duties normally only provided by a caregiver to ensure that the appellant's needs were met. The reconsideration decision states that the appellant has not provided any medical justification to support that she would be medically required to hold a joint account with the Friend to manage her financial affairs and the fact that the account was closed immediately when the ministry started questioning their relationship, supports that conclusion.

- In 2001 the appellant requested a crisis supplement as she had paid the Friend's credit card bill. The ministry's position is that this is not consistent with a roommate or caregiver relationship as a caregiver would not have a patient pay his or her credit card, and a person would ensure her own needs were met before helping a roommate with his credit card bill.
- In 2015 the appellant reported that she and the Friend owed \$2,000 to a pawnshop because they had pawned a bunch of her assets. The ministry's position is that this is more consistent with a marriage-like financial interdependence as the typically duties of a caregiver do not normally include sharing of income, assets and debts, nor is joint debts typical of a roommate relationship.
- The ministry's position is that the length of time living together, particularly in different parts of the province, the joint bank account, the payment of the Friend's credit card and joint debts, supports a financial interdependence more consistent with a marriage-like relationship.

The ministry's position is that the relationship demonstrates a social and familial interdependence consistent with a marriage-like relationship because:

- The appellant initially reported the Friend to be her fiancé and caregiver and they have stayed together for 18 years through 20 moves
- There is no information provided to indicate that the Friend gets paid to take care of the appellant which would be more consistent with a caregiver relationship
- The appellant's Consents to Release of Information from the ministry to the Friend are open-ended for all information concerning the appellant's assistance, and not specific to individual items or requests. It is unclear why the Friend initiates many of the appellant's requests when she is capable of doing that herself
- The ministry's position is that the extent of care provided by the Friend through his interaction with the ministry, joint account and history of moves is more consistent with a marriage-like relationship.

The ministry acknowledges that the appellant is a person with disabilities and requires significant assistance with daily living; however, the long-term relationship the appellant has maintained with the Friend while residing together for 18 years over 20 moves, their financial and social interdependence and more recently choosing to share a joint bank account in addition to the appellant's own bank account demonstrates that the relationship has developed into a relationship that is more consistent with a marriage-like relationship than that of a caregiver or a roommate.

The ministry's position is that as the Friend meets the definition of spouse and resides with the appellant he is considered her dependent and therefore is part of the family unit. The ministry's position is that the appellant is no longer eligible for income assistance as a sole recipient and must be assessed as a couple.

Regarding the ministry's acceptance in years' past that the appellant and the Friend were not in a common law relationship, and the fact that past tribunal decisions have found in their favour

regarding this issue, the ministry argued at the hearing that it was only in recent years that the current definition of the meaning of “spouse” was clarified and expanded to include the length of time two people had been living together and evidence of financial dependence or interdependence and social and familial interdependence.

Panel Decision

The panel finds that based on the information provided the ministry was reasonable in determining that the appellant and the Friend have a relationship that demonstrates financial dependence or interdependence and social and familial interdependence consistent with a marriage-like relationship as defined in EAPWDA section 1.1(2).

Although the Support Letter indicates that the appellant and the Friend are roommates only and are not in a common law relationship, and while the Friend indicated that he and the appellant are not involved in a conjugal relationship, the panel notes that the legislation defines a “marriage-like relationship”, which is one of the preconditions for two individuals to be considered “spouses”, as any relationship in which two people have lived together for 3 months or 9 of the previous 12 months and wherein the minister is satisfied that the relationship demonstrates financial dependence or interdependence and social and familial interdependence. It does not require that two applicants be engaged in conjugal relations.

The panel finds that the rent receipts, bank information, and the appellant’s and the Friend’s own evidence indicate that the appellant and the Friend have a relationship of financial interdependence consistent with a marriage-like relationship. In particular, while the appellant states that she and the Friend had joint bank accounts to pay their rent, there are many situations where roommates share living accommodations but maintain separate bank accounts and pay his or her portion of their rent to landlords as individuals. In addition the various rent receipts contained in the appellant’s submissions demonstrate that for some months the appellant and the Friend paid their rent together through joint bank accounts and for some months they paid it separately. Although there are some documents such as the appellant’s 2000 income tax return and some ministry records indicating that the appellant and the Friend have consistently reported their marital status as single, the panel finds that based on all of the information, the ministry was reasonable in determining that the information demonstrates a relationship of financial interdependence.

While the appellant and the Friend argue that the ministry has accepted their status as single in the past, the panel notes that the meaning of “spouse” was changed in the EAPWDA on July 1, 2006 to include two people who have lived together for 3 months or 9 of the previous 12 months in circumstances where the minister is satisfied that the relationship demonstrates financial dependence or interdependence and social and familial interdependence. While the legislation in effect at the time of the previous panel decisions may have had some bearing on previous tribunal decisions, each appeal is a new hearing, and the panel finds that while roommates often live together and share rent and bills, it is not typical for roommates to do so over a period of 18 years in 20 different places around the province. The panel also finds that if the Friend were only the appellant’s caregiver, the appellant would not have requested a crisis grant after spending her money to pay his credit card bill. Therefore, the panel finds that the evidence reasonably supports the ministry’s position that these actions are not consistent with a roommate or caregiver relationship and demonstrates financial

interdependence consistent with a marriage-like relationship.

In addition, as the evidence of the appellant and the Friend is that they go to church together, share Christmases together, work as a team to complete household tasks, and have moved around to different parts of the province together over 18 years, the panel finds that the ministry was reasonable in determining that their relationship demonstrates social and familial interdependence consistent with a marriage-like relationship.

Furthermore, the Friend provided the Release of Information allowing the ministry to release his information to the appellant, which the panel considers is not consistent with a caregiver-client relationship. In addition, the panel finds that the ministry was reasonable in determining that the fact that the Friend has provided various caregiving and assistance to the appellant over 18 years on a voluntary basis without receiving any payment demonstrates social and familial interdependence consistent with a marriage-like relationship, as a traditional caregiver might provide some voluntary services for a short period only but not for that duration of time.

Conclusion

Having reviewed and considered all of the evidence and the relevant legislation, the panel finds that the evidence and a reasonable application of the legislation in the circumstances of the appellant reasonably supported the ministry's reconsideration decision finding the appellant ineligible for disability assistance as a sole recipient. The panel therefore confirms the ministry's decision and the appellant is not successful in her appeal.