



### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (the ministry) reconsideration decision of July 8, 2016 in which the ministry denied income assistance to the appellant because the appellant failed to provide the information necessary for the ministry to determine whether she was eligible for income assistance under section 10 of the *Employment and Assistance Act*, and that she will be ineligible for income assistance until she complies with the Ministry's direction as set out in section 32(1) Employment and Assistance Regulation.

### PART D – Relevant Legislation

*Employment and Assistance Act* (EAA) sections 10 and 11  
Employment and Assistance Regulation (EAR) sections 32(1) and 33

## PART E – Summary of Facts

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

1. A Request for Reconsideration signed by the appellant and dated June 23, 2016 in which she states that:
  - She has been providing personal bank statements to the ministry showing all declared income;
  - She has always answered any questions posed by the ministry with respect to information contained in her bank statements when asked to do so;
  - While having always provided bank statements for her business in the past, she will no longer be able to do so because of the need to protect her and her business partner's privacy and due to the potential costs of providing the additional account statements;
  - If she is paid by the business it is always by cheque and she is always willing to provide evidence of the payment in the form of a cheque stub; and
  - While she could have her name removed from the business bank account, she is not sure whether it would resolve the issue from the ministry's perspective.

Prior to July 2016, the appellant had been receiving income assistance as a single parent.

In her Notice of Appeal dated July 21, 2016, the appellant said that she was being asked for something that she could not provide.

Both the appellant and a representative of the ministry attended the hearing.

At the hearing the appellant stated that she had 50 per cent ownership in a limited company of which she was president. The company has not been profitable for some time but, as a result of entering into a new market with commitments from a number of prospective clients, the appellant expects that the business will soon allow her to be self-sufficient and no longer require income assistance for her family unit. As a result, the appellant is now willing to provide the business bank account statements that the ministry had required. The appellant stated that she had approached the ministry after the reconsideration decision but before the hearing to let the ministry know that she was now prepared to provide the business bank account statements, but that the ministry advised her to proceed with the appeal and have the issue resolved at the hearing.

The following additional written evidence was introduced at the hearing:

1. Business account and Goods and Service Tax (GST) account bank statements for the appellant's limited company from March 31, 2016 to April 29, 2016 (provided to the ministry before the reconsideration decision);
2. Business account and GST account bank statements for the appellant's limited company from March 31, 2016 to April 29, 2016;
3. Business account and GST account bank statements for the appellant's limited company from April 29, 2016 to May 31, 2016;
4. Business account and GST account bank statements for the appellant's limited company from May 31, 2016 to June 30, 2016;

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5. Business account and GST account bank statements for the appellant's limited company from June 30, 2016 to July 29, 2016; and
  6. Business account and GST account bank statements for the appellant's limited company from August 1, 2016 to August 16, 2016.

The ministry did not object to the panel admitting the additional written evidence submitted by the appellant and confirmed that the ministry had asked the appellant to present the business account bank statements to the panel on appeal.

The panel determined that the additional written evidence was admissible under Section 22(4) of the EAA as evidence in support of the records before the ministry at reconsideration because it was the missing information that the ministry had identified as what was required to verify the appellant's income in the reconsideration decision.

At the hearing the ministry stated that sources of information other than business bank account statements that might be acceptable to the ministry in verifying a family unit's business income would vary depending on the circumstances, but that business bank account statements would provide the information necessary for the ministry to verify the appellant's income in this case.

The ministry also said that appellants are usually eligible for some assistance while they wait for a decision. If the decision is confirmed the appellant has to pay this money back. On the other hand, if the decision is rescinded, the assistance does not have to be repaid. The ministry said that the appellant has received such a reconsideration or appeal supplement for the months of July and August 2016, which the appellant acknowledged at the hearing.

At the hearing, the ministry confirmed that the business bank account statements for the period from March 31, 2016 to April 29, 2016, which had previously been provided to the ministry, confirmed that the appellant's family unit was eligible for income assistance for the month of June 2016, which the appellant had already received. The ministry also confirmed that the additional evidence provided by the appellant at the hearing in the form of business bank account statements for the period from April 29 to May 31, 2016, for the period from May 31 to June 30, 2016, and for the period from June 30 to July 29, 2016 were the documents requested by the ministry as verification of information relating to the eligibility of the appellant's family unit for income assistance pursuant to section 10 of the EAA, and as a result the appellant had complied with the ministry's direction under that section. Because the appellant had complied with the ministry's direction under section 10 of the EAA, the appellant's family unit was no longer ineligible for income assistance for the months of July, August and September 2016, having now met the requirements of section 32(1) of the EAR. As the appellant has already received a reconsideration or appeal supplement for the months of July and August 2016, the ministry said that those amounts will not be repayable.

## PART F – Reasons for Panel Decision

The issue under appeal is the ministry's reconsideration decision of July 8, 2016 wherein the ministry denied income assistance to the appellant because the appellant failed to provide the information necessary for the ministry to determine whether she was eligible for income assistance under section 10 of the EAA and that she will be ineligible for income assistance until she complies with the Ministry's direction as set out in section 32(1) of the EAR was a reasonable application of the applicable legislation in the circumstances of the appellant.

The relevant legislation is as follows:

### **EAA**

#### **Information and verification**

**10** (1) For the purposes of

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

the minister may ...:

(e) direct ... a recipient to supply the minister with information within the time and in the manner specified by 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. ...

(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. ...

#### **Reporting obligations**

**11** (1) For a family unit to be eligible for income assistance, a recipient, in the manner and within the time specified by regulation, must

(a) submit to the minister a report that

- (i) is in the form prescribed by the minister, and
- (ii) contains the prescribed information, and

(b) notify the minister of any change in circumstances or information that

- (i) may affect the eligibility of the family unit, and
- (ii) was previously provided to the minister.

(2) A report under subsection (1) (a) is deemed not to have been submitted unless the accuracy of the information provided in it is affirmed by the signature of each recipient.

## **EAR**

### **Consequences of failing to provide information or verification when directed**

**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. ...

### **Monthly reporting requirement**

**33** (1) For the purposes of section 11 (1) (a) [reporting obligations] of the *Act*,

(a) the report must be submitted by the 5th day of each calendar month, and

(b) the information required is all of the following, as requested in the monthly report form prescribed under the Forms Regulation, B.C. Reg. 95/2012:

- (i) whether the family unit requires further assistance;
- (ii) changes in the family unit's assets;
- (iii) all income received by the family unit and the source of that income;
- (iv) the employment and educational circumstances of recipients in the family unit;
- (v) changes in family unit membership or the marital status of a recipient;
- (vi) any warrants as described in section 15.2 (1) of the *Act*.

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## **Panel Decision**

### **Appellant's Position**

The appellant's position had been that she was no longer able to submit monthly business bank account statements because of the need to protect her and her business partner's privacy. However, the business has not been profitable for some time. As a result, the appellant is now prepared to provide the documents and submitted the business bank account statements for the most recent five months as new evidence at the hearing.

### **Ministry's Position**

The ministry's position is that section 10 of the *EAA* permits the ministry to direct a recipient to supply information necessary to allow the ministry to determine or audit a recipient's eligibility for income assistance. In the circumstances of the appellant, the information required by the ministry is the recipient's business bank account statements.

### **Appellant's Eligibility for Income Assistance**

In its reconsideration decision, the ministry identified the appellant's business bank account statements as the documents required to verify her income, thereby confirming the family unit's

eligibility for income assistance under section 10 of the EAA.

Section 32(1) of the EAR says that the period for which the minister may declare the family unit ineligible for assistance lasts until the recipient complies with the direction provided by the ministry under section 10 of the EAA. As the appellant has now complied with the ministry's direction under section 10 of the EAA, the minister may no longer declare the family unit ineligible for income assistance for failure to supply verification of information.

### **Conclusion**

As the information necessary for the ministry to determine whether the appellant was eligible for income assistance was provided to the ministry at the hearing, the panel finds that the ministry's determination that the appellant was not eligible to receive income assistance because she had failed to provide the necessary information was not reasonably supported by the evidence.

The panel rescinds the reconsideration decision in accordance with sections 24(1)(a) and 24(2)(b) of the EAA and therefore finds that the appellant is successful in her appeal.