

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision dated July 21, 2016, which denied the appellant Income Assistance (IA) because he failed to provide information and documentation as directed by the ministry to determine his eligibility for IA pursuant to section 10 of the *Employment and Assistance Act* (“EAA”) and which found that he continues to be ineligible, pursuant to section 32 of the *Employment and Assistance Regulation* (“EAR”), as he has not complied with the direction. In particular, at the time of reconsideration, the appellant did not provide a description of the source of the income deposited into his account, business lease or tenancy agreement, business rent receipts, confirmation of utilities for the business and a statement of how he is paying all of his business and personal expenses when his expenses exceed his rate of IA.

## PART D – Relevant Legislation

Employment and Assistance Act section 10  
Employment and Assistance Regulation section 32

## PART E – Summary of Facts

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

1. Statement of registration sole proprietorship;
2. Sole proprietorship summary;
3. 5-page statement of business or professional activities;
4. 2-page document of income and expenses from June 2015 to December 2015;
5. 7-page document of copies of receipts issued to customer to demonstrate business income;
6. Business account statement from May 21, 2015 to March 21, 2016;
7. Single page monthly expenses/income statement without indication as to which month the statement is for;
8. Tenant report from a local housing society dated July 30, 2015. The report is for the period of August 1, 2015 to July 31, 2016 and shows tenant rent contribution of \$786.00 and rent subsidy as \$489.00;
9. Electricity bill dated September 28, 2015 for the appellant's residence;
10. Handwritten note listing the appellant's deposits from June 19, 2015 to October 22, 2015 without details as to the source of the income for the deposits;
11. 1-page bank account history from May 31, 2015 to October 3, 2015;
12. 1-page bank account history from October 3, 2015 to December 24, 2015;
13. 4-page bank account history from December 31, 2015 to April 6, 2016;
14. 2-page handwritten note listing the appellant's partner's deposits from June 1, 2015 to March 20, 2016 without details as to the source of the income for the deposits;
15. 6-page bank deposit history from June 1, 2015 to December 30, 2015;
16. 3-page bank deposit history from January 1, 2016 to March 31, 2016; and
17. Request for reconsideration (RFR) signed and dated July 11, 2016 in which the appellant presents a timeline of the events that took place between him and the IO, the IO has made false statements about the appellant not keeping in contact with her and that the IO did not give him the opportunity to work with her.

### Evidence On Appeal

1. Notice of appeal (NOA) signed and dated August 2, 2016, in which the appellant stated that the investigating officer (IO) has made false claims, there has been a misunderstanding between him and the IO and he has provided all the information the IO requested.
2. Prior to the hearing appellant submitted the following additional documents:
  - Unofficial telephone log from June 6 to June 24 (the year is unspecified) showing on-going phone calls between the appellant and the ministry office;
  - Rent receipts for the appellant's business from January 2016 to August 2016 for \$509.25 per month;
  - Goods and services tax/harmonized sales tax credit and BC low income climate action tax credit issued on July 5, 2016 showing the annual amount of the combined credit and all quarterly installments paid to the recipient over the previous 12 months;
  - Monthly expenses/income statement for the appellant's family unit without indication of which month the statement is for;
  - Utility bill for the appellant's business issued on July 5, 2016;
  - 1-page promissory letter from the appellant's daughter dated August 18, 2016 explaining that she pays for the appellant's business expenses and he will pay back

this loan;

- 1-page promissory letter from the appellant's daughter dated August 18, 2016 explaining that she received a \$400 graduation gift from her uncle via her father's bank account ; and
- 1-page undated handwritten note from the appellant stating that rather than his net income, the IO used the gross income from his business for the calculation of an overpayment by the ministry.

### **Appellant's Evidence At Hearing**

At the hearing the appellant reviewed:

- The phone log as evidence to suggest that he had ongoing conversations with the ministry and that the IO was mistaken in saying that a conversation took place with him on June 8, 2016;
- The letters of request for information from the ministry dated March 22, 2016, June 8, 2016 and June 23, 2016 as evidence that the IO denied his claim before the deadline and that the information requested kept changing and he was therefore confused; and
- The promissory letters from his daughter as evidence that his daughter pays for his personal and business expenses as IA is insufficient and that the deposit to his bank account for \$400 was indeed a gift from his brother to his daughter.

At the hearing the ministry relied on its reconsideration decision and added that the expense/income information provided by the appellant in the additional information is still incomplete.

#### *Admissibility of Additional Information*

The ministry and the appellant did not object to the admission of new information.

The panel found that all of the information presented by the appellant, except his undated handwritten note regarding an overpayment by the ministry, was in support of the information before the ministry at the time of reconsideration. Accordingly, the panel did admit this additional information as being in support of information and records that were before the ministry at the time of the reconsideration, in accordance with s. 22(4) of the *Employment and Assistance Act*.

The panel found that the overpayment that the appellant refers to in his 1-page hand written notes was information that was not raised at reconsideration and is, therefore, not in support of the information before the ministry at the time of reconsideration. Accordingly, the panel did not admit this new information as being in support of information and records that were before the ministry at the time the decision being appealed was made, in accordance with s. 22(4) of the *Employment and Assistance Act*.

## PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry's decision to deny the appellant IA because of a failure to provide the ministry with information and documentation requested and required to determine eligibility for IA pursuant to section 10 of the EAA and to find that he continues to be ineligible pursuant to section 32 of the EAR as he has not complied with the ministry's direction was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. In particular, at the time of reconsideration, the appellant did not provide a description of the source of the income deposited into his account, business lease or tenancy agreement, business rent receipts, confirmation of utilities for the business and a statement of how he is paying all of his business and personal expenses when his expenses exceed his rate of IA.

The relevant legislation is as follows:

### **Information and verification**

#### **Employment and Assistance Act**

**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.

(5) If a dependent youth fails to comply with a direction under this section, the minister may reduce the amount of income assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period.

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

#### Employment and Assistance Regulation

**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.

(2) For the purposes of section 10 (5) [*information and verification*] of the Act,

(a) the amount by which the minister may reduce the income assistance or hardship assistance of the dependent youth's family unit is \$100 for each calendar month, and

(b) the period for which the minister may reduce the income assistance or hardship assistance of the dependent youth's family unit lasts until the dependent youth complies with the direction.

#### *The Appellant's Position:*

The appellant argues that the decision is unfair because the IO was inconsistent in the information she requested and there was miscommunication that led to confusion over what was expected. He argues that the 2 promissory notes from his daughter show that she is paying for his business and personal expenses and that she received a cash gift via his account. Finally, he argues that he has now provided the ministry with all the information he can gather and that he does not have a new lease agreement for his business as the rent is month to month, or a letter from his brother regarding the \$400 deposit to his account and therefore he cannot provide these items.

#### The Ministry's Position:

The ministry's position is that, pursuant to section 10 of the EAA, the appellant did not comply with the request to provide all of the information and documentation so that his eligibility for IA could be assessed in the time frame he was given and that until such time that he provides the information requested of him, he will remain ineligible for IA pursuant to section 32 of the EAR.

#### The Panel's Decision:

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Section 10 of the EAA states that in order to determine or audit eligibility for income assistance, hardship assistance or a supplement, the ministry may direct an applicant or a recipient to supply information within the time and in the manner specified by the minister, seek verification of any information supplied to the minister by an applicant or a recipient, and or direct an applicant or a recipient to supply verification of any information he or she supplied to the minister.

The appellant acknowledges that he received from the ministry 3 letters requesting information and that he was expected to comply with the requests. At the hearing the ministry reviewed each letter to demonstrate that in each letter specific information was consistently requested. In each letter the appellant was also provided with a deadline for submission of the requested information. The legislation clearly states that the ministry can request information or verification of information and that the applicant must comply within the time and in the manner specified by the minister. The panel acknowledges that the appellant and the ministry had many telephone conversations and that he may have been confused by these conversations. However, the panel finds that the request letters sent to him were clear on what documentation was required and when the documentation was required. The 2 letters of March 22, 2016 list documents that were to be submitted by April 5, 2016 and the letter of June 8, 2016 specifies a due date of June 22, 2016. As noted by the ministry in the reconsideration decision, several documents had not been received including a description of the source of the income deposited to the appellant's accounts and his business lease or tenancy agreement. The panel therefore finds that the evidence establishes that the appellant failed to provide the information requested of him in the time frame in which it was requested. As a result, the panel finds that the ministry reasonably determined that the appellant failed to supply information as directed pursuant to Section 10 of the EAA within the time specified by the ministry.

Under Section 32 of the EAR, the period for which the ministry may declare the family unit ineligible for assistance lasts until the recipient complies with the ministry's direction. The panel finds that at the time of the reconsideration decision the appellant had not provided the ministry with a description of the source of the income deposited into his account, business lease or tenancy agreement, business rent receipts, confirmation of utilities for the business and a statement of how he is paying all of his business and personal expenses when his expenses exceed his rate of IA. At the hearing, while the appellant provided some of the requested information, he had yet to provide the ministry with: 1) the business' utility expenses, other than one hydro bill from the municipality, 2) a complete expense/income statement, 3) the business lease or tenancy agreement, 4) a letter from his brother confirming that he was the source of the \$400 deposit, 5) the source of all of the income deposited into his account, and 6) a statement of how he is paying all of his personal expenses when his expenses exceed his rate of IA. The panel finds that the ministry reasonably determined that the appellant is not eligible for income assistance pursuant to Section 32 of the EAR until he complies with the direction to provide this information.

**Conclusion:**

The panel finds that the ministry reasonably concluded that the evidence establishes that the appellant did not fully comply with the request for information and documentation to determine his eligibility for IA as required by section 10 of the EAA. The panel therefore finds that the ministry's decision to find the appellant is ineligible for IA due to a failure to provide information requested by the ministry was a reasonable application of the legislation and supported by the evidence. The panel confirms the ministry's reconsideration decision. The appellant was not successful in his appeal.