



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of August 3, 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), and will be ineligible for assistance as set out in section 32(1) *Employment and Assistance Regulation* (EAR) until he complies with the ministry’s direction.

PART D – Relevant Legislation

EAA – section 10
EAR – section 32

PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration:

- Owner's certificate for appellant's two vehicles;
- Vehicle transfer form date stamped March 31, 2016 for appellant's vehicle – price \$2000.00;
- Vehicle transfer form date stamped February 18, 2016 for appellant's vehicle – price \$100.00;
- Bank statements for December 2015 to May 2016, inclusive;
- Rent receipt in amount of \$1,000.00 dated 1, 2016 for April & May's rent;
- Letter from appellant's lawyer dated May 27, 2016 advising file remains active and there have been no settlement payments;
- Letter from appellant's employer advising appellant last worked in December 2015;
- Fee Agreement between appellant and his lawyer regarding an ICBC claim;
- Consent of Disclosure dated June 1, 2016 signed by appellant regarding ICBC insurance payments being made by appellant's father;
- Letter from ministry to appellant dated June 14, 2016 advising him he is no longer eligible for income assistance until he provides the information regarding vehicle assets, documents to support how he is managing his high monthly expenses, documentation on his ICBC settlement; vehicle purchase and transfer documents for his two vehicles and credit card statement;
- Loan Agreement between appellant and his father regarding ICBC insurance payments on the appellant's vehicles;
- Three credit card statements covering the period of April 13 to July 12, 2016 showing administrative charges, payments and purchases;
- Request for Reconsideration dated July 19, 2016 signed by appellant with vehicle transfer forms, bank/credit card statements, letter from his father stating he made ICBC insurance payments and confirmation of funds received from ICBC.

The appellant is a single recipient of income assistance. On March 11, 2016 the ministry (EAW) commenced a review of the appellant's file to determine his eligibility for income assistance. In the course of the review the EAW requested the appellant to provide his bank statements to confirm that no employment earnings were being deposited into his account. The appellant advised that he cashed cheques for a friend and then dispensed these funds to her as needed. The appellant confirmed he and his friend would be living together soon. During the course of the review the appellant was requested to submit a number of documents; record of employment, bank statements, vehicle asset forms, credit card statements and his settlement on an ICBC accident claim. The ministry noted the appellant receives \$590 monthly in income assistance; that his rent is \$500 per month; his cell phone bill is \$80 a month and the funds from the large monthly deposit into his bank account belong to a friend. At Reconsideration the appellant had submitted a number of documents requested by EAW but failed to submit his credit card statement for March and April 2016. The EAW was unable to determine the appellant's eligibility for income assistance. The ministry advised the appellant that as he was deemed ineligible for income assistance for failing to comply with a direction and that he would be ineligible for income assistance until he complied with the direction. The appellant's file with the ministry is managed through a third party administrator who is the appellant's advocate.

At the hearing the appellant stated that he had provided all the information that the ministry had requested to his advocate who was supposed to submit the information. He stated that he later

learned the advocate had not submitted the March 2016 credit card statement but has since done so. The appellant stated that he didn't understand the whole process and apologized for any inconvenience stating that he thought he had done the right thing and didn't know until he spoke with the advocate later that a credit card statement the ministry had requested was missing as it wasn't sent in with the other documents.

The panel finds the oral testimony provided by the appellant is in support of the information and record that was before the ministry at the time the reconsideration decision was made and is admissible as evidence under section 22(4) of the EAA.

The ministry relied on the facts in the Reconsideration.

At the hearing the ministry referenced the following documents located in the appellant's file:

1. Email dated August 5, 2016 from the appellant's advocate to the ministry which stated, "Attached are March April CC (credit card) statements that apparently were missed in the recon."
2. Credit card statement for period March 13, 2016 to April 12, 2016.
3. Credit card statement for period April 13, 2016 to May 12, 2016.

The ministry stated that in reviewing the appellant's April credit card statement she noted the statement period of April 13, 2016 – May 12, 2016 is indicated at the top of the statement and this period may have lead the reviewer to conclude that the complete April statement was not being provided. The ministry advised the panel that this April credit card statement was in the file at the time the Reconsideration decision was made, The ministry stated the period dates are consistent with the other statements provided and it would be the ministry's position that this document met the ministry's request to provide his April credit card statement.

The ministry then advised the panel that the March credit card statement which covers the period March 13, 2016 to April 12, 2016, Item #2 above, was also located in the appellant's file. The ministry stated this document was received after the Reconsideration decision on August 5, 2016 with an email, item #1 above, from the appellant's advocate who was apologizing for not submitting it with the other documents.

The ministry agreed Item #3 had been submitted as requested and the Reconsideration officer's statement that it had not been submitted was in error.

The panel finds the April credit card statement, Item #3 above, is included in the ministry record and therefore was before the ministry at the time the reconsideration decision was made.

The ministry objected to this information, Item #1 and Item #2 above, being received as new evidence as these documents were not before the ministry until after the reconsideration decision was made.

The panel finds the information provided by the ministry, item #1 and #2 regarding the March credit card statement and the email from advocate is not information that is in support of the information and record that was before the ministry at the time the reconsideration decision was made and therefore is not admissible as evidence under section 22(4) of the EAA.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's reconsideration of August 3, 2016 that determined 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 he will be ineligible for income assistance until he complies with the ministry's direction as set out in section 32(1) EAR was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

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

The ministry's position is that the appellant received a number of requests to provide his credit card statements for March and April 2016 so the ministry could determine his eligibility for income assistance but he failed to do so. The ministry stated that after further review of the appellant's file the April 2016 statement was located in the file and was submitted prior to Reconsideration which only left the March credit card statement as outstanding.

Appellant's Position

The appellant's position is he works with the ministry through an advocate. The appellant argued this was not his fault as he had given all the information the ministry requested to his advocate who was to submit the documents. The appellant stated that he later learned the advocate had not submitted the March credit card statement with the other documents.

Panel Decision

In the Reconsideration decision the ministry's position was that the appellant failed after numerous requests to submit a copy of his March and April credit card statements so the ministry could determine his eligibility for income assistance. The evidence is that the ministry located the April credit card statement in the appellant's file and determined the statement was received prior to the reconsideration decision. The appellant's March 2016 credit card statement was only information requested by the ministry that remained outstanding. At the hearing the appellant acknowledged the March 2016 credit card statement had not been submitted by his advocate prior to the reconsideration decision.

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 that the appellant failed to comply with a direction to submit all the requested information to determine his eligibility for income assistance. Therefore, the panel finds the ministry's decision to declare the appellant ineligible for income assistance as set out in section 10(4) EAA was reasonable.

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.