



### PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (the ministry) dated August 30, 2016 in which the ministry found that, pursuant to the the Employment and Assistance for Persons with Disabilities Regulation Schedule A, Section 6(2), the appellant is not eligible for the shelter allowance portion of her disability assistance because she is receiving room and board from a parent and is therefore eligible only for the applicable support allowance.

### PART D – Relevant Legislation

*Employment and Assistance for Persons with Disabilities Act* (EAPWDA), Section 1(1) and Section 5

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), Section 24, and Schedule A Section 6(2)

## PART E – Summary of Facts

The appellant receives disability assistance as a sole recipient.

The evidence before the ministry at the reconsideration consisted of the following:

1. Ministry shelter information form dated June 27, 2016 in the name of the appellant indicating a rental start date of July 1, 2016 and room and board of \$375 per month including utilities payable to a relative; and
2. Ministry shelter information form dated July 1, 2016 in the name of the appellant indicating a rental start date of July 1, 2016 and room and board of \$375 per month including utilities payable to a relative.
- 2.3. The appellant's request for reconsideration, dated August 5, 2016. Under "Reasons for Request for Reconsideration", the appellant wrote that:
  - She was being denied a shelter allowance because she was paying room and board to a parent;
  - Being over 19 years of age, she is no longer a dependent child and, as such, she is expected to contribute to the costs of room and board in her parent's residence, just as she would if she had moved in with a roommate or friend;
  - She has reviewed policies regarding room and board and can find no policy dealing with family units and, because she is living with her parent, she and her parent are being considered a family unit, which does not make sense to the appellant because she is an independent adult;
  - If the appellant and her parent are being considered a family unit, the amounts they are receiving do not make sense to the appellant. Now that she has moved into her parent's residence with her parent and his partner, her parent's family unit size is three persons and the shelter amount that he receives should have increased from \$570.00 to \$660.00. In fact her parent still receives only \$570.00 and the appellant has lost her \$375.00 shelter allowance;
  - If her parent, her parent's partner and the appellant are a family unit, none of the family unit definitions in Schedule A describe her parent's family unit, so it is not clear to the appellant which schedule they fall under. The family unit comprises two adult persons with disabilities and the appellant's parent's partner who is also the caregiver of the parent with a disability. The appellant would like this explained to her; and
  - She feels that the reasons for the denial of the shelter allowance are discriminatory because if she chose to live with a friend or non-related roommate she would continue to receive her shelter allowance as a sole applicant, but because she has chosen to live with a family member she has lost her shelter allowance. She also states that in her community it is extremely challenging to find housing, so living with family is mutually beneficial and her financial stability or that of her family should not be affected by her decision to live with her parent.

### *Evidence on Appeal*

In the Notice of Appeal (NOA) dated September 2, 2016, the appellant expressed her disagreement with the ministry's reconsideration decision and wrote that she was appealing the ministry's decision on the basis that she is not able to live on her own and that if she was not disabled her room and board costs would be covered by the ministry.

### *Admissibility of additional information*

The panel accepted the appellant's NOA as argument.

### *The Hearing*

The appellant did not attend the hearing. After confirming that the appellant was notified of the hearing, the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation.

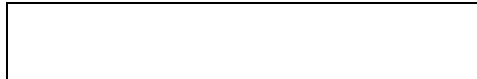
Two ministry observers monitored the hearing for training purposes but did not actively participate.

At the hearing, the ministry relied on its reconsideration decision.

The ministry stated that the appellant's parent is the owner of the appellant's residence and is charging the appellant room and board. The ministry confirmed that the term "room and board" is interpreted by the ministry to include the rental of living space (room) and the provision of meals (board).

The ministry further explained that if, rather than providing room and board, the appellant's parent was charging the appellant rent for either a self-contained suite or room within the parent's principle residence or for a room only, with common shared areas, the appellant might be eligible for a shelter allowance. In any of these other circumstances meals are not provided. If the appellant's parent were to rent the appellant a room or a self-contained suite, a new shelter information form would have to be submitted by the appellant with either Section A (self-contained unit or room) or Section C (room only) completed, depending on the type of accommodation rented to the appellant. The amount of shelter allowance available to the appellant if she were renting either a self-contained unit or room or a room only from a landlord who is the owner of the residence would be whatever amount she was being charged for the room up to the maximum shelter allowance amount for a single person family unit. Where the landlord is a renter, the total rent would be divided by the number of adults residing in the residence and a sole recipient would receive a shelter allowance up to a maximum of \$375.

The ministry also stated that if the appellant was not receiving disability assistance but was instead receiving income assistance, she would also not be eligible for a shelter allowance if she was receiving room and board from a parent because Section 6(2) of Schedule A of the Employment and Assistance Regulation contains the same provisions as Section 6(2) of Schedule A of the EAPWDR.



## PART F – Reasons for Panel Decision

The issue on the appeal is whether the ministry decision, in which the ministry found that, pursuant to the the EAPWDR Schedule A, Section 6(2), the appellant is not eligible for the shelter allowance portion of her disability assistance because she is receiving room and board from a parent and is therefore eligible only for the applicable support allowance, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

Section 1(1) of the EAPWDA provides in part:

### Interpretation

**1** (1) In this Act:

**"applicant"** means the person in a family unit who applies under this Act for disability assistance, hardship assistance or a supplement on behalf of the family unit, and includes

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

**"child"** means an unmarried person under 19 years of age;

**"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;

**"dependent child"**, with respect to a parent, means a child, other than a child who is 18 years of age and is a person with disabilities, who resides in the parent's place of residence for more than 50% of each month and relies on that parent for the necessities of life ... ;

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

Section 2(1) of Schedule A of the EAPWDR provides in part:

### Monthly support allowance

**2** (1) A monthly support allowance for the purpose of section 1 (a) is the sum of

- (a) the amount set out in Column 3 of the following table for a family unit described in Column 1 of an applicant or a recipient described in Column 2 ...

| Item | Column 1<br>Family unit composition | Column 2<br>Age or status of applicant or recipient | Column 3<br>Amount of base support |
|------|-------------------------------------|---|------------------------------------|
| 1    | Sole applicant/recipient and no     | Applicant/recipient is a person with disabilities   | \$556.42                           |

|                    |  |  |
|--------------------|--|--|
| dependent children |  |  |
|--------------------|--|--|

Section 24 of the EAPWDR identifies the amount of disability assistance as follows:

**Amount of disability assistance**

- 24** ... disability assistance may be provided to or for a family unit, for a calendar month, in an amount that is not more than
- (a) the amount determined under Schedule A, minus
  - (b) the family unit's net income determined under Schedule B.

Section 6 of Schedule A of the EAPWDR identifies the amount of disability assistance for a family unit receiving room and board from a relative as follows:

**People receiving room and board**

- 6** (1) For a family unit receiving room and board other than ... from a relative referred to in subsection (2), the amount referred to in section 24 (a) [amount of disability assistance] of this regulation is the smaller of
- (a) the sum of
    - (i) the actual cost of the room and board, plus
    - (ii) \$60 for each calendar month for each applicant or recipient, plus
    - (iii) \$25 for each calendar month for each applicant or recipient who is a person with disabilities ... and
  - (b) the amount calculated under sections 1 to 5 of this Schedule for a family unit matching the applicant's or recipient's family unit.
- (2) If a family unit receives room and board from a parent or child of an applicant or a recipient in the family unit, only the following amounts may be provided:
- (a) the support allowance that is applicable under sections 2 and 3 of this Schedule to a family unit matching the applicant's or recipient's family unit.

\* \* \* \*

*Appellant's Position*

The appellant's position is that she should be entitled to a shelter allowance. She feels that the ministry is discriminating against her because if she chose to live with a friend or non-related roommate she would continue to receive her shelter allowance as a sole applicant, but because she has chosen to live with a family member she is considered part of her parent's family unit and does not qualify for a shelter allowance.

### *Ministry's Position*

The ministry's position is that because the appellant is not a dependent child but rather a single adult receiving disability assistance who is living in a room and board arrangement with a parent, she is eligible for a support allowance but not a shelter allowance, pursuant to Section 6(2) of Schedule A of the EAPWDR.

### *Panel's Decision*

Section 1(1) of the EAPWDA defines a dependant to be anyone who resides with a person and who is a dependent child of that person. A child is defined as an unmarried person under 19 year of age, and a dependent child is defined as a child, other than a child who is 18 years of age and is a person with disabilities, who resides in the parent's place of residence for more than 50% of each month and relies on that parent for the necessities of life. As the appellant is over 18 years of age, she does not meet the definition of a dependent child.

Section 1(1) of the EAPWDA further defines family unit to mean an applicant or a recipient and his or her dependants. The appellant's parent is a recipient, but because the appellant is not a dependant of her parent, she is not part of her parent's family unit.

Section 6(2) of Schedule A of the EAPWDR says that if a family unit receives room and board from a parent of a recipient in the family unit, only the applicable support allowance amount may be provided. As the appellant represents a recipient in a family unit receiving room and board from a parent, she is only entitled to the applicable support allowance and not the shelter allowance.

Given that the shelter information form provided by the appellant clearly shows that she is living in a room and board arrangement and that the person providing the room and board is a parent, the panel finds that the ministry was reasonable in its determination that the appellant is not entitled to a shelter allowance because she is receiving room and board from a parent.

### *Conclusion*

As a result the panel finds that the ministry's decision to deny the appellant's request for a shelter allowance was a reasonable application of the legislation and was reasonably supported by the evidence. The panel confirms the ministry's reconsideration decision and the appellant's appeal, therefore, is not successful.