

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (the Ministry's) reconsideration decision dated January 18, 2017, which held that the appellant was ineligible for a shelter allowance under section 2 of the *Employment and Assistance Act* (EAA), and section 32 and Schedule A of the *Employment and Assistance Regulation* (EAR), from November 2015 until such time as she complies with the Minister's request under section 10(1) of the EAA to provide information to verify where she resides and the monthly cost of her rent. Without such information, the Ministry determined it could not determine her eligibility for shelter allowance, under Schedule A, section 5 of the *Regulation*.

PART D – Relevant Legislation

Employment and Assistance Act, ss. 2, 10, and 19.1

Employment and Assistance Regulation, ss. 28, 32, and Schedule A sections 4 and 5 ("Schedule A")

Administrative Tribunals Act, s. 44

PART E – Summary of Facts

Information before the Ministry at reconsideration

The appellant has received income assistance since June 2013.

In November 2015, the appellant submitted a request for Direct Deposit to the Ministry noting a change of address for mailing purposes only. On February 4, 2016, the Ministry received two Electronic Funds Transfer Notices for the appellant, returned in the mail as “moved.” On February 16, 2016, a Ministry worker placed a hold on the appellant’s April 2016 shelter benefits, requesting rent receipts for December 2015 through to March 2016.

On March 23, 2016, the appellant attended at a Ministry office and a worker advised her that the Ministry requires a new “shelter document” in addition to rent receipts for December 2015 through March 2016. The appellant provided a copy of a Notice of change of Address that she had submitted to the Provincial Court.

On April 5, 2016, the appellant contacted the Ministry twice to inquire about the amount of her monthly assistance. The worker reminded the appellant that she needed to provide a shelter document and rent receipts in order for the Ministry to determine her shelter costs. The appellant first told the Ministry she was unable to disclose her dwelling information, then later in the day told the Ministry she would see what she could do.

On April 20, 2016, the appellant attended at a Ministry office, stating that she does pay monthly shelter costs but is unable to submit the required documents. The appellant provided the Ministry with a mailing address, but said she lives elsewhere and is not able to disclose that information.

On December 12 2016, the appellant requested that her shelter allowance be reinstated back to March 2016. The Ministry denied her request.

The appellant applied for reconsideration on January 12, 2017 and the Ministry issued its reconsideration decision on January 18, 2017.

Documents before the Ministry at reconsideration included the following:

- The appellant’s request for reconsideration dated January 9, 2017 in which she stated the decision was blatantly unreasonable in fact (due to omissions of fundamental facts) and law; that she barely made it through the holidays with “the very little money welfare has allowed me to receive, especially since March 2016”; that “welfare already has more than enough evidence and reasonable basis to decide this case in my favour”; and that “perpetually stating the obvious is a mockery of justice.”
- A Notice of Change of Address filed on November 4, 2015 in Provincial Court, noting “the judge has ordered the other party not be given the address due to safety issues on file.”
- A Ministry Application for Direct Deposit Request dated September 21, 2015, noting a “change of mailing address only.”

Information provided on appeal

In her notice of appeal, the appellant provided a written statement dated January 28, 2017 (the

[Redacted]

“Statement”). She submits the Ministry’s decision is unreasonable because it omits essential facts, applies the legislation in an unreasonable manner, and that the legislation itself is contrary to principles of natural justice and the *Canadian Charter of Rights and Freedoms* (the “Charter”). She says it was unreasonable for the Ministry to deny her shelter allowance because that denial is part of a campaign of “continual, blatant wrongdoing” involving various government departments and ministries. She states this campaign includes wrongfully removing her children in 2011, which caused her to cease being eligible for co-op housing; condoning trespass into her residence in a housing co-op; laying her off from government work while she was pregnant; an 8-month BC Hydro outage prior to her moving out of her residence in October 2015; obstructing her from removing her belongings from a housing co-op when she moved out in 2015; and finally denying her shelter allowance. The appellant states that denying her shelter allowance subjects her to “such a low income it threatens to end my life.”

At the oral hearing, the appellant made the following factual submissions:

- Her current shelter issues and the Ministry’s denial of her shelter allowance are related to events that occurred from 2007 to early 2011, including a bad relationship that ended with her as a single mom; her forced committal to hospital; and the removal of her children. The appellant said her housing situation was dependent on her children living with her, so she had to move out.
- She moved out of her last residence, a housing co-op, on October 31, 2015.
- She felt the organization in charge of her housing treated her poorly. When her housing subsidy application was due in June 2015, the organization would not tell her the amount of her monthly rent, and would not tell her whether she would receive a rent subsidy that would allow her to stay with the limited shelter allowance provided by the Ministry. She said people trespassed in her suite, and the organization had her car towed.
- She had no electricity for 8 months before she moved out.
- After she moved out on October 31, 2015, she twice reported her change of mailing address to the Ministry.
- Since then, she has had “unstable” housing, which she said means “not good or existent.” She has lived in many different places since November 1, 2015.
- She says she has paid some rent, but she has no rent receipts.
- Safety issues related to an abusive relationship prevent her from disclosing where she lives. She does not trust the Ministry to keep her housing information private.

The appellant also made the following arguments:

- She needs the full amount of support. It is not reasonable to withhold the shelter amount because a lack of stable housing does not mean that someone has less expense. In fact, she said, having less stable housing results in more expense in trying to meet basic needs and it forces a person into debt. She argues it is hard to live in an “organized way” without stable housing.
- She said it was not reasonable to deny her the shelter amount in the context of all the circumstances that led up to her moving out of co-op housing in October 2015.
- She asserts that withholding the shelter amount is against the Charter and threatens to end her life. She says a number of passive decisions can have the same effect as shooting a person.
- She encouraged the panel to “break laws when they are not right,” and asked the panel to find

sections of law that could help her.

The Ministry relied on the reconsideration summary provided in the Record of Ministry Decision. Additionally, at the oral hearing, the Ministry noted that shelter allowances may only be used for shelter, and that is why the Ministry requires proof of shelter expense in situations where a client advises the Ministry that they have moved, or where mail is returned to the Ministry as undeliverable. The Ministry explained that as soon as the appellant provides documentation she will be reassessed. The Ministry also noted that where documentation is not available, or in situations of unstable housing, it can work with clients to verify information in other ways, such as telephoning places where a client has stayed. The Ministry also said it does not share information about a client's housing with others.

Admissibility of additional evidence

The panel admitted the Statement and the appellant's oral factual submissions, set out above, under section 22(4)(b) of the EAA as information in support of the information available at reconsideration. The information substantiates the appellant's previous assertions at reconsideration that the Ministry's decision was wrong in fact and law and her assertion that the Ministry had omitted facts.

PART F – Reasons for Panel Decision

Issue on appeal

The issue is whether the Ministry's reconsideration decision determining the appellant was ineligible for a shelter allowance under section 2 of the EAA and section 32 and Schedule A of the EAR from November 2015 until she complies with the Minister's request under section 10(1) of the EAA to provide information to verify where she resides and the monthly cost(s) of her rent, is reasonably supported by the evidence or a reasonable application of the applicable legislation in the circumstances of the appellant.

The relevant legislation

The Employment and Assistance Act:

Eligibility of family unit

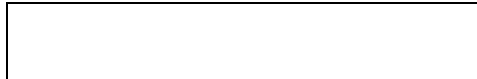
- 2** For the purposes of this Act, a family unit is eligible, in relation to income assistance, hardship assistance or a supplement, if
- (a) each person in the family unit on whose account the income assistance, hardship assistance or supplement is provided satisfies the initial and continuing conditions of eligibility established under this Act, and
 - (b) the family unit has not been declared ineligible for the income assistance, hardship assistance or supplement under this Act.

Information and verification

- 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.

Application of *Administrative Tribunals Act*

19.1 The following provisions of the [*Administrative Tribunals Act*](#) apply to the tribunal:

...

- (e) section 44 [*tribunal without jurisdiction over constitutional questions*];

The Employment and Assistance Regulation:

Amount of income assistance

28 Income 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.

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.

- (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.

Schedule A to the *Regulation*

Monthly shelter allowance

4 (1) For the purposes of this section:

"**family unit**" includes a child who is not a dependent child and who resides in the parent's place of residence for not less than 40% of each month, under the terms of an order or an agreement referred to in section 1 (2) of this regulation;

"**warrant**" has the meaning of a warrant in section 15.2 [*consequences in relation to outstanding arrest warrants*] of the Act.

(2) The monthly shelter allowance for a family unit to which section 15.2 of the Act does not apply is the smaller of

- (a) the family unit's actual shelter costs, and
- (b) the maximum set out in the following table for the applicable family size:

Item	Column 1 Family Unit Size	Column 2 Maximum Monthly Shelter
1	1 person	\$375

...

How actual shelter costs are calculated

- 5** (1) For the purpose of this section, utility costs for a family unit's place of residence include only the following costs:
- (a) fuel for heating;
 - (b) fuel for cooking meals;
 - (c) water;
 - (d) hydro;
 - (e) garbage disposal provided by a company on a regular weekly or biweekly basis;
 - (f) rental of one basic residential single-line telephone.
- (2) When calculating the actual monthly shelter costs of a family unit, only the following items are included:
- (a) rent for the family unit's place of residence;
 - (b) mortgage payments on the family unit's place of residence, if owned by a person in the family unit;
 - (c) a house insurance premium for the family unit's place of residence if owned by a person in the family unit;
 - (d) property taxes for the family unit's place of residence if owned by a person in the family unit;
 - (e) utility costs;
 - (f) the actual cost of maintenance and repairs for the family unit's place of residence if owned by a person in the family unit and if these costs have received the minister's prior approval.
- (3) If utility costs fluctuate, they may be averaged over the periods
- (a) beginning on October 1 and ending on March 31, and
 - (b) beginning on April 1 and ending on September 30.
- (4) If 2 or more family units share the same place of residence, the actual shelter costs of any one of them are the smaller of
- (a) the amount calculated by
 - (i) dividing the actual shelter costs for all the family units by the number of persons occupying that place of residence, and
 - (ii) multiplying the result by the number of persons in that one family unit, and
 - (b) the amount declared by the family unit as the shelter costs for that family unit.

Administrative Tribunals Act

Tribunal without jurisdiction over constitutional questions

- 44** (1) The tribunal does not have jurisdiction over constitutional questions.
- (2) Subsection (1) applies to all applications made before, on or after the date that the subsection applies to a tribunal.

The Panel's decision

The parties' positions

The appellant argues the Ministry's decision that she is ineligible for a shelter allowance is unreasonable because she needs this money to meet her basic needs. She submits she cannot provide the information requested by the Ministry because of a court order; the decision is part of a campaign against her by government agencies; and the resulting low income threatens her life

contrary to the Charter.

The Ministry's position is that it is authorized under section 10 of the EAA to require information and verification of information of the appellant's shelter costs, particularly where she has told them she has moved and where mail addressed to her has been returned to the Ministry. The Ministry says it is authorized to declare the appellant ineligible until the information or verification is provided. Further, the Ministry says it requires the information about where the appellant lives and her monthly rental costs in order to determine the shelter allowance for which she is eligible, as the Regulation only allows for the lesser of actual costs or the maximum allowance of \$375 per month for the appellant's family unit.

The panel's analysis

A person in receipt of assistance remains eligible only if she satisfies the continuing conditions of eligibility under the EAA: section 2(a). Section 10(1) of the EAA provides that for the purposes of determining or auditing eligibility, the Ministry may direct a recipient to supply the minister with information within the time and in the manner specified by the minister, seek verification of any information supplied to the minister, or direct a recipient to supply verification of any information he or she has supplied to the minister. Section 10(4) provides that if a recipient fails to comply with a direction, the minister may declare the recipient ineligible for assistance for the "prescribed period." The "prescribed period" is set out in section 32(1) of the EAR: the period of ineligibility "lasts until the applicant or recipient complies with the direction."

Section 4 of Schedule A of the EAR sets out that the monthly shelter allowance is the smaller of a family unit's actual shelter costs and the maximum allowance. The maximum monthly shelter allowance for a single person is \$375 per month. Section 5(2) of Schedule A states how actual shelter costs are calculated. For a person who rents rather than owns their residence, shelter costs only include rent and utility costs, with utility costs including only fuel for heating or cooking, water, hydro, garbage disposal, and rental of one basic residential single-line telephone (Schedule A, section 5(1)).

Here, the appellant only remains eligible for a shelter allowance only if she satisfies the continuing conditions of eligibility under the EAA. The Ministry was authorized under section 10(1) to seek information from the appellant to verify her rental costs, and the panel finds that it was reasonable for the Ministry to do so because (1) it must know actual shelter costs in order to determine the amount of shelter costs to which the appellant is eligible, and (2) the appellant's actual shelter costs came into question when the appellant informed the Ministry that she moved as of November 1, 2015, and when mail for the appellant was returned to the Ministry as undeliverable.

While the appellant argues that declaring her ineligible for a shelter allowance threatens her ability to provide herself with basic needs, the legislation clearly restricts the Ministry to providing a shelter allowance only for the lesser of the appellant's actual or maximum allowable rental and utility costs. The Ministry has no discretion to provide the appellant with a shelter allowance for her to use for other basic needs. Further, while the appellant submits the decision is part of a campaign against her, the Ministry is clearly entitled under section 10 of the EAA to declare the appellant ineligible for failure to provide the information requested, and section 32 of the EAR proscribes that the ineligibility ends only when the appellant provides the requested information. The Ministry's decision to declare the

appellant ineligible for a shelter allowance was a reasonable application of the legislation in the circumstances of the appellant, as the appellant herself admits she has not provided (or is unwilling to provide) such verification to the Ministry, yet the Ministry needs such information to calculate the allowable shelter costs.

In relation to the appellant's argument that the Ministry's decision violates her Charter rights, the panel has no jurisdiction to consider Charter arguments about the constitutionality of the Ministry's reconsideration decision: section 19.1 of the EAA and section 44 of the *Administrative Tribunals Act*.

Conclusion

The panel finds the Ministry's reconsideration decision that determined the appellant was ineligible for a shelter allowance from November 2015 until she complies with the Minister's request under section 10(1) of the EAA to provide information to verify where she resides and the monthly cost of her rent is both reasonably supported by the evidence and a reasonable application of the legislation in the circumstances of the appellant. The Panel confirms the Ministry's reconsideration decision. The appellant is not successful in her appeal.