

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision dated June 5, 2017 that held the appellant is not eligible for income assistance for May 2017 because the total value of her assets exceeded \$2,000, the legislated limit as set out in Section 11(2) of the Employment and Assistance Regulation (EAR).

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR), Sections 1 and 11.

PART E – Summary of Facts

With the consent of the parties, the hearing was conducted in writing pursuant to Section 22(3)(b) of the Employment and Assistance Act.

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

- The appellant's Application For Income Assistance dated October 17, 2016.
- The appellant is a single person in receipt of income assistance.
- On April 19, 2017, a file review was conducted at which time the appellant stated that she was no longer fleeing an abusive situation as the issue had been resolved and that she would not be applying for PWD designation. As the value of the appellant's assets had been calculated at the PWD rate, she was then advised that her asset level would be assessed as an income assistance recipient and if they remained the same, she would not be eligible for assistance.
- On May 2, 2017, the appellant confirmed the total value of the vehicles registered in her name was \$9,800. (Jetta - \$3,500, Honda - \$400, Kawasaki - \$5,500, Jeep - \$500). The appellant was then advised that she was not eligible for income assistance due to having assets valued at more than the allowable limit.
- A copy of the appellant's Bank Account Details dated May 15, 2017 indicating a balance of approximately \$285.
- A copy of a Transfer Tax Form dated May 18, 2017 indicating the sale of a Honda for \$400.
- A Request For Reconsideration dated May 19, 2017 in which the appellant wrote that since her separation she has endeavored to look for employment and is working with a government employment agency. She has found it a little difficult mentally to prepare quickly to get back into the work force and would appreciate a little more time on assistance to lessen the grief that she is experiencing looking for employment and trying to come up with funds to support herself. She states that she has used up all of her savings since she first applied for assistance and that some things have changed since the last time she submitted supporting documents for her assets. She recently sold her 1997 Honda Civic for \$400, no longer has any savings, the value of her Jetta has changed due to needing a new valve, shocks, bumper, throttle body, hood paint, lower skirt rust paint and a timing belt. It also has back bumper damage, and needs to be checked for its working condition as it has very high kilometers. She writes that the value as it sits is \$1400. She also has parts valued at \$500.

Additional information provided

A Notice of Appeal dated June 8, 2017 in which the appellant explains that the ministry was under the assumption that her Jetta was her primary vehicle and the Kawasaki and Jeep were her assets when both the Jetta and Kawasaki are primary vehicles as the Kawasaki is used as her primary vehicle in the summer season and the Jetta is used as her primary vehicle in the colder months.

In response to the Notice of Appeal, the ministry confirms that they will rely on the Reconsideration Decision as written. While the ministry indicates that they have reviewed the additional information from the appellant indicating that she has changed her primary vehicle from the Jetta to the Kawasaki motorcycle, this information was not before the reconsideration officer at the time of the decision. The ministry further indicates that the appellant is welcome to reapply for income assistance and provide evidence to support that her Kawasaki motorcycle is her primary vehicle.

Admissibility of New Information

While the panel agrees with the ministry that the information from the appellant's Notice of Appeal was not before the reconsideration officer at the time of the decision, the panel has accepted the information in the Notice of Appeal as argument.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration decision that held the appellant is not eligible for income assistance for May 2017 because the total value of her assets exceeded \$2,000, as set out in Section 11(2) of the Employment and Income Assistance Regulation.

Relevant Legislation

Employment and Income Assistance Regulation

Definitions

1 (1) In this regulation:

"asset" means

- (a) equity in any real or personal property that can be converted to cash,
- (b) a beneficial interest in real or personal property held in trust, or
- (c) cash assets;

Asset limits

11 (1) The following assets are exempt for the purposes of subsections (2) and (2.1):

- (a) clothing and necessary household equipment;
- (b) **subject to subsection (2.3), one motor vehicle generally used for day to day transportation needs if**
 - (i) **the equity in the motor vehicle does not exceed \$10 000,**
 - (ii) the motor vehicle has been significantly adapted to accommodate the disability of a recipient in the family unit,
 - (iii) the motor vehicle is used to transport a disabled dependent child, or
 - (iv) the motor vehicle is used to transport a disabled supported child, if the child is in the care of the applicant or recipient;

2) A family unit is not eligible for income assistance if any of the following apply:

- (a) **subject to paragraph (c), a sole applicant or sole recipient has no dependent children and has assets with a total value of more than \$2 000;**
- (b) subject to paragraph (c), an applicant or a recipient has one or more dependants and the family unit has assets with a total value of more than \$4 000;
- (c) one applicant or recipient in the family unit receives accommodation and care in a private hospital or a special care facility, other than an alcohol or drug treatment center, or is admitted to a hospital for extended care, and the family unit has assets with a total value of more than \$100 000;
- (d) 2 applicants or recipients in the family unit receive accommodation and care in a private hospital or a special care facility, other than an alcohol or drug treatment centre, or are admitted to a hospital for extended care, and the family unit has assets with a total value of more than \$200 000.

Positions of the Parties

The ministry's position is that an asset is defined as equity in any real or personal property that can be converted to cash. As the vehicles registered in the appellant's name may be converted to cash, they will be treated as assets for the purpose of administering the legislation. As the appellant's Jetta is considered to be the vehicle she uses for day to day transportation, the value will not be included in the total value of the appellant's assets. There are 3 vehicles remaining registered in the appellant's name, the Jetta which is exempted from the calculation of the value of the assets, the Jeep valued at \$500 and the Kawasaki at \$5,500, with a total value of vehicles of \$6000. As the total of the appellant's assets exceed \$2000, which exceeds the allowable limit, the appellant is not eligible for income assistance.

The appellant's position is that she has used up all of her savings since she first applied for assistance and that some things have changed since the last time she submitted supporting documents for her assets. She recently sold her 1997 Honda Civic for \$400, no longer has any savings, the value of her Jetta has changed due to needing a new valve, shocks, bumper, throttle body, hood paint, lower skirt rust paint and a timing belt. It has back bumper damage, and needs to be checked for its working condition as it has very high kilometers. She writes that the value as it sits is \$1400. She also has parts valued at \$500. On appeal, the appellant argues that both the Jetta and Kawasaki are primary vehicles as the Kawasaki is used as her primary vehicle in the summer season and the Jetta is used as her primary vehicle in the colder months. The appellant also states that the ministry representative informed her that; "I was over the asset limit in which I was shocked because I knew that I took every measure to assure I was not".

The panel finds that without the appellant submitting any supporting professional quote evidence of the value of repairs required, the change in value of the Jetta are generic quotes only and not enough to establish another actual value of the vehicle. The appellant also states that the Jetta vehicle is used in the colder months and is in usable condition. Further, the appellant has recently received \$400 for the Honda which is an additional cash asset as set out in the legislation and must be included in the equation.

While acknowledging the appellant's stated usage of 2 primary vehicles, the legislation is clear that only one vehicle may be exempted from the total value of assets for day to day transportation pursuant to Section 11(1)(b) of the EAR. Should the Kawasaki be the appellant's primary vehicle, the panel finds that the total value of the appellant's assets in May 2017 would still exceed \$2000, (Jetta - \$1400, Parts - \$500, Honda sale \$400 = Total Value of \$2,300), pursuant to Section 11(2) of the EAR.

Accordingly, the panel finds that the ministry's decision that the appellant is not eligible to receive income assistance for May 2017 because she has assets in excess of the legislated amount was reasonably supported by the evidence and confirms the ministry's decision. The appellant therefore is not successful in her appeal.