

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision of July 21, 2017 which determined that in accordance with section 10 and 11 of the Employment and Assistance for Persons with Disabilities Act (EAPWDA) the appellant was ineligible for shelter allowances totaling \$1,125 and is therefore liable to repay the resulting overpayment in accordance with section 18 of the (EAPWDA).

PART D – Relevant Legislation

Sections 10, 11 and 18 of the EAPWDA and
Schedule A of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR).

PART E – Summary of Facts

The appellant did not attend the hearing. Upon confirming that the appellant was notified the hearing proceeded in accordance with section 86(b) of the Employment and Assistance Regulation.

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

The appellant is a sole recipient receiving disability assistance.

On November 28, 2016, the ministry received an allegation that the appellant had received shelter allowances although she was not required to pay shelter costs.

In a letter dated April 5, 2017, the ministry requested several documents from the appellant by April 27, 2017 to verify her past eligibility for assistance including rent receipts for September, October and November 2016.

An undated shelter information form states the rental address and a rental start date of September 1, 2016. It provides conflicting information, indicating the appellant paid \$375 per month for rent (including utilities) and \$ 375 per month for room and board (paid to a person other than a relative). A landlord/registered owner is named, and the form is not signed.

On April 12, 2017, the appellant phoned and spoke with the ministry who advised that if the appellant was unable to provide verification of her shelter costs for September, October and November 2016, there would be an overpayment for the shelter costs she was issued. The ministry phoned and spoke with the registered owner who stated he never completed a rental agreement with the appellant and, to his knowledge, she did not live at the address during that time.

In a letter dated April 26, 2017 a society confirms the appellant stayed in a shelter for the following dates:

September 1 - 2

October 2 - 31

November 1-8 and 17 – 30.

A phone call on April 27, 2017 confirmed there are no shelter costs at this place.

On May 12, 2017, the ministry had not received verification that the appellant owed shelter costs for September – November 2016 and mailed a notification of overpayment to the appellant.

On July 17, 2017, the ministry phoned to advise the appellant of the deadline to submit additional information. The appellant confirmed she did not submit rent receipts or any other verification of shelter costs, but a woman may phone to verify the appellant paid \$375 rent in September and \$100 for food for October. The bank statements the appellant submitted as part of her eligibility review do not show withdrawals totaling \$ 375 for each month.

On May 12, 2017 the appellant wrote that she had health issues and was unable to submit information on time. She still needs a bit more time as she deals with a lot of pain and it is hard to get everything together.

In a letter dated June 16, 2017, the appellant wrote that she lived at the rental accommodation during part of September and October 2016 and paid her shelter costs to other household members rather than the owner. She stated she paid \$375 for rent for September and \$150 for food for October. She was in and out of her ex's house and then in a shelter during November.

In a letter dated June 16, 2017 the appellant wrote that her rental agreement was “for one month only”. Her landlord knew that she was staying there. She did not pay her rent directly to the landlord but to other household members. She paid \$375 rent for September but had to leave halfway into the month. She can agree the ministry overpaid her \$375 in October. In November she was in and out of her ex’s place and a shelter where she continued to stay from November 18 onwards.

In a letter dated July 3, 2017, the appellant states that she is late once again but has not been well for the past month.

At her Notice of Appeal the appellant submitted a letter dated July 31, 2017, stating that she paid \$ 375 rent for September and \$ 100 for October.

Pursuant to section 22(4) of the Employment and Assistance Act, the panel admits the appellant’s statements in her Notice of Appeal as being in support of the information and record that was before the ministry at the time of reconsideration; the appellant re-iterated that she paid rent in September and October.

The ministry presented its reconsideration decision and added the following information: The information before the ministry at reconsideration and on appeal did not include any medical records.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry reasonably determined that in accordance with section 10 of the Employment and Assistance for Persons with Disabilities Act (EAPWDA) the appellant was ineligible for shelter allowances totaling \$1,125 and is therefore liable to repay the resulting overpayment in accordance with section 18 of the (EAPWDA).

EAPWDA

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...

Reporting obligations

- 11** (1) For a family unit to be eligible for income assistance, a recipient, in the manner and within the time specified by regulation, must
- (a) submit to the minister a report that
 - (i) is in the form prescribed by the minister, and
 - (ii) contains the prescribed information, and
 - (b) notify the minister of any change in circumstances or information that
 - (i) may affect the eligibility of the family unit, and
 - (ii) was previously provided to the minister.
- (2) A report under subsection (1) (a) is deemed not to have been submitted unless the accuracy of the information provided in it is confirmed by a signed statement of each recipient.

Overpayments

- 18** (1) If disability assistance, hardship assistance or a supplement is provided to or for a family unit that is not eligible for it, recipients who are members of the family unit during the period for which the overpayment is provided are liable to repay to the government the amount or value of the overpayment provided for that period.
- (2) The minister's decision about the amount a person is liable to repay under subsection (1) is not appealable under section 16 (3) [*reconsideration and appeal rights*].

Schedule A of the EAPWDR

Monthly shelter allowance

- 4** (2) The monthly shelter allowance for a family unit to which section 14.2 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

The appellant's position:

The appellant argues that she is eligible for shelter assistance for September. She was not aware that she received an overpayment due to living in chaos and focusing on her survival while homeless. She was not aware she received overpayments because she is handicapped and cannot go to her bank; she just accesses bank machines. While she lived at the rental accomodation she paid her shelter costs to other household members rather than the owner. She paid \$375 for September and \$ 100 for October but had to leave halfway into September. She knows the landlord well and he knew she was staying in the house.

The ministry's position:

The ministry argues that the appellant has not provided confirmation that she was required to pay shelter costs or that she had paid shelter costs for September 2016. The information provided by the owner the appellant allegedly rented from supports that the appellant did not have shelter costs at that address, and her bank statements confirm that she did not withdraw \$375 each month to pay shelter costs for September, October and November 2016. Case notes and shelter information do not indicate the there was a rental contract for one month only. The appellant confirmed she did not submit rent receipts or any other verification of shelter costs.

Based on the evidence available the ministry is not satisfied the appellant had shelter costs for these months and therefore the appellant was ineligible for shelter allowances she was paid for September, October and November 2016, which was \$ 375 per month totaling \$1,125. In accordance with section 18 of the EAA she must repay this overpayment amount to the ministry.

Panel Decision

As the appellant had received full shelter allowances for the months of September, October and November 2016 the panel finds that the ministry reasonably determined that the appellant is liable to repay the resulting overpayment in accordance with section 18(1) of the EAPWDA. Section 18(2) provides that the amount of a repayment is not subject to appeal.

The panel finds that, as there is insufficient evidence that the appellant was required to pay shelter costs during these 3 months, the ministry was reasonable in requesting rent receipts in accordance with section 10 and 11 of the EAPWDA. When the appellant did not provide these receipts or other supporting documentation the ministry reasonably concluded that she was ineligible for shelter allowance for September, October and November 2016.

While the appellant mentions health issues the panel finds there is insufficient evidence of medical issues as no supporting documentation has been provided by a medical professional.

Conclusion

After considering all the evidence and the applicable legislation the panel finds that the ministry's reconsideration decision which held the appellant liable to repay shelter allowances for which she was not eligible was reasonably supported by the evidence and was a reasonable application of the applicable regulation in the circumstances of the appellant. Therefore the panel confirms the decision and the appellant is not successful on appeal.