

### **PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “ministry”) reconsideration decision of September 25, 2017 in which the ministry determined that the appellant was ineligible for a shelter allowance for November and December 2015 because:

1. she failed to provide sufficient information to confirm her actual shelter costs as required by Section 4 of Employment and Assistance Regulation (EAR) Schedule A; and
2. she requested payment for shelter costs incurred before the calendar month in which her request was made, contrary to EAT Section 26(5).

### **PART D – RELEVANT LEGISLATION**

Employment and Assistance Regulation (EAR): Section 26 and Schedule A, Section 4

## PART E – SUMMARY OF FACTS

The appellant is a sole recipient of income assistance for persons with multiple barriers to employment.

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

- appellant's Request for Reconsideration with decision date of July 1, 2017 and date requestor informed of July 12, 2017. Section 2 "Decision to be Reconsidered" includes the disposition of several Service Requests (SR), summarized as follows:
  - SR 1 – appellant's December 3, 2015 request for security deposit. (*denied by ministry on December 9, 2015. Request for shelter allowance for November 2015 was denied upon reconsideration on January 14, 2016*);
  - SR 2 – appellant's January 28, 2016 request for general supplement for shelter (*denied by ministry on February 9, 2016. The appellant did not seek reconsideration of the decision*);
  - SR 3 – appellant's June 21, 2016 request for reimbursement of November and December 2015 hydro costs (*file closed by ministry on August 15, 2016 as appellant failed to submit requested information*);
  - SR 4 – record of the ministry's unsuccessful attempt to contact appellant to respond to appellant's update request regarding SR 3 and to reiterate that the appellant's November 2015 shelter allowance request had been denied upon reconsideration and was not appealed;
  - SR 5 – initiated by the ministry as an administrative underpayment review file on March 14, 2017 to respond to appellant's assertion that she had received no correspondence from the ministry and was still seeking reimbursement for November and December 2015 shelter costs.
- residential tenancy agreement for a property described as "360 \_\_\_\_\_ Street Upstairs" between the appellant as tenant and landlord ("S"), for a tenancy commencing November 1, 2015 at a rent of \$500 per month including utilities;
- receipt from S dated November 25 (year not included) for November 1, 2015 rent received from the appellant for rental address described as "835 upstairs unit";
- receipt from S dated December 28, 2016 for rent received from the appellant for rental address described as "835 upstairs unit";
- hydro bill addressed to S for property described as " 360 \_\_\_\_\_ Street upstairs 853";
- fax transmissions dated May 24, 2016 and June 6, 2016 from the appellant to the ministry enquiring about the November and December 2015 rent cheques.

### Additional Evidence Received Prior to Hearing

Prior to the hearing the appellant submitted a 1 page document, undated but date-stamped by the Employment & Assistance Appeal Tribunal office on October 30, 2017. The documents contain 5 bulleted statements. The first 4 bulleted statements relate to the appellant's argument and are therefore not evidence to be considered by the appeal panel. The final bulleted statement notes that S contacted the ministry and provided a phone number and email address.

The panel considered the final bulleted statement and admitted it under EAA Section 22 (4) as evidence in support of the information before the ministry at reconsideration because it related directly to the information on which the ministry relied at the time of reconsideration.

The ministry relied on the reconsideration decision, summarized as follows:

- on December 3, 2015 the appellant submitted a tenancy agreement for "853 360 \_\_\_\_\_ Street Upstairs and a rent receipt for "835 upstairs unit" for November 2015. Landlord S was not the legal owner of the building and the tenancy agreement provided no contact details, preventing the ministry from verifying the shelter information and the discrepancy between unit numbers;
- on December 9, 2015 the appellant informed the ministry that she refused to submit additional documentation to verify her shelter costs, and stated that S did not want to be contacted;
- the ministry informed the appellant that she was ineligible for a shelter allowance for November 2015 and confirmed this decision at reconsideration on January 14, 2016;
- on January 28, 2016 the appellant submitted a rent receipt dated December 28, 2016 for "835 upstairs unit". The ministry determined that insufficient information had been provided to determine eligibility for a shelter allowance for December 2015;
- the ministry attempted unsuccessfully to contact the appellant, so added a note to the appellant's file that her request for December 2015 shelter allowance had been denied;
- on April 12, 2016 the appellant contacted the ministry and was advised that she was ineligible for shelter allowance for November and December 2015;
- on May 24, 2016 and June 11, 2016 the appellant contacted the ministry requesting shelter allowance

cheques for November and December 2015;

- on July 19, 2016 the ministry sent a message to the appellant requesting documents to support her request for shelter allowances for November and December 2015;
- on July 19, 2016 the appellant faxed a tenancy agreement, two rent receipts and an illegible hydro bill addressed to S. (Details of these documents have been set out on Page 3 of these reasons.);
- the appellant denied having received notice of ineligibility for November and December 2015 shelter payments and requested an administrative underpayment review. The ministry reviewed the file and again determined that the appellant was ineligible for November and December 2015 shelter allowances because the information submitted could not be verified.

## PART F – REASONS FOR PANEL DECISION

The issue under appeal is the reasonableness of the ministry's determination that the appellant was ineligible for a shelter allowance for November and December 2015 because:

1. she failed to provide sufficient information to confirm her actual shelter costs as required by Section 4 of Employment and Assistance Regulation (EAR) Schedule A; and
2. she requested payment for shelter costs incurred before the calendar month in which her request was made, contrary to EAT Section 26(5).

Relevant legislation:

### EAR:

#### Effective date of eligibility

**26** (1) Except as provided in subsection (2), (2.01), (2.1), (3.01) or (3.1), a family unit is not eligible for income assistance or supplements in respect of a period that occurred before the date the minister determines the family unit is eligible for the income assistance or supplements, as applicable.

(2) A family unit becomes eligible

(b) for a shelter allowance under sections 4 and 5 of Schedule A on the first day of the calendar month that includes the date of the applicant's submission of the application for income assistance (part 2) form, but only for that portion of that month's shelter costs that remains unpaid on the date of that submission, and

(5) A family unit is not eligible for any assistance in respect of a service provided or a cost incurred before the calendar month in which the assistance is requested.

### Schedule A

#### Monthly shelter allowance

**4** (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

The appellant argues that she is eligible for a shelter allowance for the months of November and December 2015 because she notified the ministry of her change in shelter costs and submitted sufficient documentation to confirm her new address and actual shelter costs.

The ministry argues that the appellant is not eligible for a shelter allowance because:

1. she failed to provide sufficient information to enable the ministry to verify her shelter costs for November and December 2015; and
2. she requested payment for shelter costs incurred before the calendar month in which her request was made.

## Panel Decision

### 1. Failure to Provide Information to Verify Shelter Costs

Section 4 of EAR Schedule A states that shelter allowance is based on actual shelter costs to a maximum of \$375 for a single person. On November 20, 2015 the appellant notified the ministry of a change in shelter costs. At the ministry's request she submitted a tenancy agreement between herself and S for a property listed as "853- 360 \_\_\_ Street Upstairs". S is not the registered owner of the property. The term of the tenancy was 1 year commencing November 1, 2015 at a monthly rent of \$500 including utilities. The tenancy agreement did not include the address, telephone number or other contact details of S.

The appellant also submitted two rent receipts indicating that:

- on November 25 (year not noted) the appellant paid \$500 for November rent that was due on November 1st (year not noted) for a property listed as "835 upstairs unit"; and
- on December 28, 2016 (clearly a typo because December 2016 was at that time a future date that had not yet occurred) the appellant paid \$500 for an unspecified rental period.

Both of these receipts were signed by S. They do not contain the full address of the rental unit, and the rental unit is described as "835" rather than "853" which is the unit named in the tenancy agreement. Again there is no contact information listed to assist the ministry in contacting S to verify the discrepancy in the unit description and the legal right of S to enter into a tenancy agreement for a property in which he is not the registered owner.

The appellant also submitted an illegible hydro bill addressed to S for unit 853. This hydro bill does not assist the ministry because it does not provide contact details for S. Also, the \$500 monthly rent listed in the tenancy agreement includes all utilities and thus is not required in determining the actual shelter costs of the appellant.

The information submitted by the appellant does not contain sufficient information to verify the appellant's actual shelter costs. The appellant's ministry file notes that the appellant informed the ministry that the landlord did not wish to be contacted, and both the tenancy agreement and rent receipts fall far below the usual normal business practice of a landlord. Although in her October 30, 2017 submission received after reconsideration the appellant asserts that S contacted the ministry and provided a phone number and email address there is no record of any contact with S in the ministry file.

Because the documents were incomplete, contained discrepancies and S failed to provide contact information to enable the ministry to verify the details of the tenancy the panel finds that the ministry reasonably determined that the appellant was ineligible for payment of a shelter allowance for November 2015 and December 2015 because she failed to provide information to verify her actual shelter costs as required by EAR Schedule A, Section 4.

### 2. Ineligibility for Costs Incurred Prior to the Month in which Request was Made

On January 28, 2016 the appellant submitted a rent receipt for rental costs incurred in December 2015. EAR Section 26(5) states that a person is not eligible for assistance in respect of a cost incurred before the calendar month in which the assistance is requested.

The panel finds that the ministry reasonably determined that the appellant was not eligible for rental costs incurred in December 2015 because this cost was incurred in the month prior to her request.

## **CONCLUSION**

In conclusion the panel finds that the ministry's determination that the appellant was ineligible for a shelter allowance for the months of November and December 2015 is reasonably supported by the evidence, and confirms the decision. The appellant is not successful in her appeal.