

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

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated August 14, 2018 which found that the appellant is not eligible for assistance under Section 10 of the *Employment and Assistance for Persons With Disabilities Act* (EAPWDA) for failing to comply with a direction to supply requested information and verification.

The ministry also found that the appellant continues to be ineligible for income assistance pursuant to Section 28 of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR) because he has not fully complied with the direction since requested information remained outstanding, namely:

- Bank statements for a particular bank account from March 1, 2018 to present;
- T4's and T5's for 2014, 2015, 2016, and 2017; and,
- Rent receipts for January, February and March 2018.

### **PART D – RELEVANT LEGISLATION**

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), Section 28  
*Employment and Assistance for Persons With Disabilities Act* (EAPWDA), Section 10

## PART E – SUMMARY OF FACTS

The evidence before the ministry at the time of the reconsideration decision included:

- 1) Letter dated May 29, 2018 from the ministry to the appellant which states in part that the appellant's file has been selected for review and that information may be requested in order to determine or audit eligibility for assistance; the ministry wrote that information or documentation is required by June 20, 2018, including:
  - Identification;
  - Current rent receipts and bills for all utilities and, if a home is owned, proof of the associated expenses. In particular, provide rent receipts from January 1, 2018 to present and utility bill for all addresses reported to the ministry from January 1, 2018 to present;
  - Statements for all bank accounts, sole or joint, for the last 90 days, including named institutions;
  - Confirmation of all accounts, assets, or investments for the last 90 days, including named institutions;
  - Income Tax Notices of Assessment and/or copy of completed tax returns for 2014, 2015, and 2016;
  - Tax slips (T4's, T5's, etc) for the 2014, 2015, 2016 and 2017 tax years;
  - Complete a monthly budget sheet, as attached.
- 2) Letter dated June 20, 2018 from the ministry to the appellant that states in part that the appellant's file has been selected for review and that information may be requested in order to determine or audit eligibility for assistance; the ministry stated the information requested in the May 29, 2018 letter has not been provided and is required by July 12, 2018;
- 3) Letter dated July 12, 2018 from the ministry to the appellant that states in part that the appellant was required to provide information by way of letters dated May 29 and June 20, 2018 and the ministry has not yet received all of the requested information. The outstanding information is:
  - For a bank profile with a particular institution, to provide bank statements for this account from February 29, 2018 to present;
  - For a bank profile with another institution, to provide bank statements for three accounts from February 29, 2018 to present;
  - Notice of Assessment for tax years 2014, 2015, and 2016 and T4's and T5's for 2014, 2015, 2016 and 2017.
  - Rent receipts from January 1, 2018 to present; and,
  - Complete attached monthly budget sheet.The ministry wrote in the letter that, as the appellant's eligibility cannot be determined, he is no longer eligible for assistance and his file will be closed on August 17, 2018;
- 4) Letter dated July 19, 2018 from the ministry to the appellant that states that the appellant's next assistance cheque issue day is July 25, 2018 and will be held until the information requested (as set out in the July 12, 2018 letter) has been received;
- 5) Print out of a series of tax documents, including T5 Statements of Benefits for the 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017 tax years, T4RSP for the 2014, 2015, 2016 tax years, T4 Statement of Remuneration Paid for the 2012, 2013 and 2016 tax years; RRSP Contribution Receipt for the 2014, 2015 tax years;
- 6) Completed Personal Monthly Budget;
- 7) Invoice dated July 17, 2018 for a wireless phone plan for \$22.40 per month;

- 8) Fax sheet marked sent on July 24, 2018 in which the appellant wrote that he is currently on assistance and has not filed taxes in 14 years. He is requesting hardship as the ministry is withholding his assistance cheque for the second month in a row. The ministry wants tax assessment for 4 years which he does not have;
- 9) Transaction Inquiry statements dated July 25, 2018 for two different bank accounts;
- 10) RRSP details statement dated July 25, 2018; and,
- 11) Requests for Reconsideration dated July 31, 2018.

In his Request for Reconsideration, the appellant wrote that:

- The request is due to inadequate time to acquire documents.
- He has no car and limited access to the telephone.
- He had to arrange getting ID to get the Services Canada account in order to request the 10 years of taxes he has not filed plus T4's, T5007's, etc.
- The wait times on the automated telephone services are atrocious, i.e. 2 hours and/or all the lines are busy.
- He has acquired the documents requested by the ministry as quickly as he could with the limited means he has.
- The delay in providing his cheque was not reasonable and has cost him even more.

In his Notice of Appeal dated August 21, 2018, the appellant expressed his disagreement with the ministry's reconsideration decision and wrote that:

- The ministry overlooked information that was brought to the local office and uploaded to the system August 1<sup>st</sup>, namely the T4's, T5007's, and the rent receipts.
- There is also a letter dated August 20, 2018 from a named institution about a TFSA account.

At the hearing, the appellant stated that:

- As far as he is concerned, the local office of the ministry had received all the requested documents by August 1, 2018.
- For the Notices of Assessment, he let the ministry know that he has to file 10 years of taxes before he will receive the Notices. He had reasons for not filing his income tax returns in the past.
- It took forever to get a statement from the bank concerning a TFSA account, but that has now been received and provided to the ministry. He does not have a copy of the statement but it basically confirmed that the account is closed.
- He provided his rent receipts to the ministry on August 20, 2018 and thought that the January, February and March 2018 rent receipts were included. It is possible that these receipts were missed as there were about 100 pages that he provided to the ministry.
- He was not on the lease for the rental accommodation. His brother and another party were the tenants and he was a sub-tenant. He paid the rent to the third party and he believes she did not pay it to the landlord. He had wanted to pay the rent directly to the landlord but the third party refused to allow him to go on the lease.

The ministry relied on its reconsideration decision as summarized at the hearing. The information provided by the ministry included that:

- She and the appellant have been interacting from the beginning and there is an appreciation by the ministry that the appellant had some challenges obtaining the information as he first had to obtain photo ID. The ministry allowed more time for the appellant than is the common practice to accommodate these difficulties.
- The information requested by the ministry regarding the bank statements for a particular account was received on August 20, 2018.
- The requested tax documents, specifically the T4's and T 5's for 2014 to 2017 were received by the ministry. The ministry no longer requires the appellant to provide Notices of Assessments for these years.
- The outstanding information is the rent receipts for January, February and March 2018. The appellant's case file with the ministry was re-checked and the ministry confirmed that these receipts have not been received to date.
- If the appellant had not paid rent for these months, the ministry would be satisfied with a letter or written statement by the appellant that he did not pay rent for these months.
- There were two tenants on the Tenancy Agreement and they were both evicted. There was an allegation that the appellant did not pay rent and, therefore, the ministry requires confirmation of whether or not the appellant paid rent for these months.
- The appellant has been in receipt of reconsideration benefits for two months and, if the ministry decision is confirmed, he would be required to pay this amount back at the rate of approximately \$20 per month. The appellant would also be able to provide the outstanding rent receipts for January, February and March 2018 and re-apply for assistance.

#### *Admissibility*

The ministry did not object to the admissibility of the information about a statement for a particular bank account being provided to the ministry on August 20, 2018 and did not raise an objection to the additional oral evidence on behalf of the appellant. While the income tax documents were listed in the reconsideration decision as still outstanding, the record before the ministry at reconsideration included the T4's and T5's for the tax years 2014 through 2017 and the panel admitted these documents as being part of the record before the ministry at reconsideration, pursuant to Section 22(4)(a) of the *Employment and Assistance Act*.

The panel did not admit the information about the statement for a particular bank account as the appellant had not addressed this item in his Request for Reconsideration, as to whether it had been provided or would be provided, and, therefore, the additional information is neither information and records that were before the ministry at reconsideration [Section 22(4)(a) of the *EAA*] or oral or written testimony in support of information and records before the ministry on reconsideration [Section 22(4)(b) of the *EAA*].

## **PART F – REASONS FOR PANEL DECISION**

The issue on appeal is whether the ministry's decision, that the appellant is not eligible for assistance under Section 10 of the EAPWDA for failing to comply with a direction to supply requested information, and continues to be ineligible for income assistance pursuant to Section 28 of the EAPWDR because he has not fully complied with the direction, is reasonably supported by the evidence or a reasonable application of the applicable enactment in the appellant's circumstances.

Section 10 of the EAPWDA provides:

### **Information and verification**

10 (1) For the purposes of

- (a) determining whether a person wanting to apply for disability assistance or hardship assistance is eligible to apply for it,
- (b) determining or auditing eligibility for disability 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 disability 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 disability 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 disability assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period.

Section 28(1) of the EAPWDR provides that:

28 (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.

### *Panel decision*

Pursuant to Section 10(1)(b) and (e) of the EAPWDA, the ministry may direct a recipient of disability assistance to supply the ministry with information, within the time and in the manner specified by the ministry, for the purposes of auditing eligibility. If a recipient fails to comply with this direction, the ministry may declare the person ineligible for disability assistance until the recipient complies with the direction [Section 10(4) of the EAPWDA and Section 28 of the EAPWDR]. In the reconsideration decision, the ministry wrote that the ministry sent letters to the appellant dated May 29, 2018 and June 20, 2018 that required specific information from the appellant by the deadlines of June 20, 2018 and July 12, 2018 respectively. The ministry stated at the hearing that additional time was afforded to the appellant due to the challenges that he experienced initially with obtaining ID, and another letter dated July 12, 2018 was sent by the ministry advising the appellant that, if the outstanding information is not received, his file will be closed on August 12, 2018. The appellant did not dispute that he received these letters nor that he was aware of the information that was being requested by the ministry; however, the appellant argued that he believed all of the information, with the exception of the statement relating to a particular bank account, had been provided to the local ministry office on August 1, 2018. The appellant stated at the hearing that it took forever for the bank to provide him with a statement, but that this document was also provided to the ministry on August 20, 2018.

In the reconsideration decision the ministry wrote that, while some information had been provided by the appellant, there was still information that had not been received by the ministry, specifically: a bank statement for a particular account, T4's and T5's for 2014, 2015, 2016 and 2017, and rent receipts for January, February, and March 2018. At the hearing, the ministry confirmed that the T4's and T5's for 2014, 2015, 2016 and 2017 had been received and that the ministry no longer required Notices of Assessment for these years, and this information was included in the record before the ministry at reconsideration. Therefore, the panel finds that the tax information had been supplied to the ministry by the appellant by the stated deadline.

For the bank statement for a particular account, the ministry acknowledged that this information had also been received by the ministry after the date of the reconsideration decision and the panel finds that this information was still outstanding at the time of reconsideration. The appellant stated at the hearing that he believed that he had provided all the requested rent receipts to the ministry on August 1, 2018; however, the ministry re-checked his case file with the ministry and confirmed at the hearing that the rent receipts for January, February, and March 2018 had not been received by the ministry to date. The appellant acknowledged at the hearing that it was possible that these months were missed as he had provided close to 100 pages of documents to the ministry. Therefore, the panel finds that the ministry reasonably concluded that the appellant did not provide information as directed by the ministry pursuant to Section 10 of the EAPWDA within the time specified by the ministry, or by August 12, 2018.

Pursuant to Section 28 of the EAPWDR, the period for which the ministry may declare the family unit ineligible for assistance lasts until the recipient complies with the ministry's direction. The ministry maintained the position on the appeal that the only outstanding items that the appellant must provide consist of rent receipts for January, February, and March 2018. Therefore, the panel finds that the information outstanding to comply with the direction by the ministry consists

of the rent receipts for these three months in 2018. The panel finds that the ministry reasonably determined that the appellant is not eligible for disability assistance, pursuant to Section 28 of the EAPWDR, until he complies with the direction to provide this information to the ministry.

*Conclusion*

Therefore, the panel finds that the ministry's decision was reasonably supported by the evidence and the panel confirms the decision. Therefore, the appellant's appeal is not successful.

**PART G – ORDER**

THE PANEL DECISION IS: (Check one)       UNANIMOUS       BY MAJORITY

THE PANEL       CONFIRMS THE MINISTRY DECISION       RESCINDS THE MINISTRY DECISION

If the ministry decision is rescinded, is the panel decision referred back to the Minister for a decision as to amount?       Yes       No

**LEGISLATIVE AUTHORITY FOR THE DECISION:**

*Employment and Assistance Act*

Section 24(1)(a)  or Section 24(1)(b)

and

Section 24(2)(a)  or Section 24(2)(b)

**PART H – SIGNATURES**

PRINT NAME

S. Walters

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2018-09-11

PRINT NAME

Tina Ahnert

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018-09-11

PRINT NAME

Kulwant Bal

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018-09-11