

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the November 15, 2018 reconsideration decision of the Ministry of Social Development and Poverty Reduction (the ministry), denying the appellant income assistance under section 10 of the *Employment and Assistance Act* (EAA) and section 32 of the *Employment and Assistance Regulation* (EAR) because he failed to provide the information requested by the ministry under section 10 of the EAA.

**PART D – RELEVANT LEGISLATION**

*Employment and Assistance Act* (EAA) section 10

*Employment and Assistance Regulation* (EAR) section 32

[Redacted]

**PART E – SUMMARY OF FACTS**

The appellant is a recipient of income assistance (IA) as a single person.

On June 13, 2018, the ministry initiated a review of the appellant's file because it received information that he was living in a common law relationship and was not residing at his declared address.

On June 20, 2018, the ministry sent a letter to the appellant requesting that he provide several documents. More specifically, the ministry requested documents relating to the appellant's tax returns, income and employment from January 1, 2016; confirmation of assets, accounts and investments at all financial institutions; confirmation from the homeowner regarding the appellants' living situation for a period during 2017; and information relating to whether the appellant was in a marriage-like relationship.

On July 9, 2018, the ministry sent a second letter to the appellant regarding the requested documents and a 'signal' was placed on his August IA cheque.

On July 16, 2018, the investigative officer (IO) spoke with the appellant by telephone and reviewed the list of documents requested by the ministry. The appellant stated that he was on house arrest and couldn't leave except to go to a doctor, lawyer or his bail supervisor. The IO indicated that the appellant should provide any documents he could obtain as well as a copy of the bail order and a letter from the bail supervisor confirming that he couldn't comply with the ministry's request.

On August 1, 2018, the appellant provided a copy of the bail order to the ministry.

On August 1, 2018, the ministry sent a letter advising the appellant that it had not yet received all of the documents requested and if he did not provide the information by August 23, 2018 his assistance may be reduced or discontinued.

On August 2, 2018, the appellant's August IA cheque was released to him.

On August 24, 2018, the ministry sent a letter advising the appellant that it had not yet received all of the documents requested and if he did not provide the information by September 17, 2018 his assistance may be reduced or discontinued.

On September 18, 2018, the ministry sent a letter advising the appellant that it had not yet received all of the documents requested and the ministry was unable to determine the appellant's eligibility for IA. The ministry concluded that the appellant was not eligible for assistance and advised that his file would be closed on October 24, 2018.

On October 16, 2018, the appellant submitted a Request for Reconsideration and an extension of time to provide information. He stated that he was on house arrest until October 15, 2018 and was not able to get the information requested during his audit.

The appellant submitted a second Request for Reconsideration, dated November 14, 2018, in which he stated that he has been on house arrest and, because of this, he had been unable to obtain the documents requested by the ministry. He explained that since completing his house arrest he had obtained the tax information requested but had been unable to obtain the other information as his identification had been stolen in June. The appellant further stated that he and [name omitted] had been dating on and off for the past 4 years, they had not lived together at any time, were not in a marriage-like relationship and had no joint accounts. The appellant stated that he did not have any bank accounts at that time. The appellant argued that if he were to be cut-off of assistance he would end up back in jail as

he is on a Conditional Sentencing Order (CSO) and receiving treatment.

The following documents were included with the November 14, 2018 Request for Reconsideration:

- 2016 & 2017 tax assessments;
- 2016 & 2017 T4s and T5007s; and
- A screenshot from Service Canada indicating no Record of Employment information.

In his Notice of Appeal, dated November 20, 2018 the appellant argued that the IO told him that a bank profile form was attached to a letter that was sent to him by the ministry and, if he signed this form, it would allow the IO to deal with the bank on his behalf. The appellant stated that the bank would not deal with him because he was without identification. He argued that the bank profile form was not attached to the ministry's letter, and this made him obtain unable to obtain the information requested and led to him being kicked off of assistance.

### **Hearing Submissions**

#### Appellant

At the hearing the appellant and his advocate argued that the appellant attempted to comply with the ministry's requests for information and did communicate with the ministry. He stated while the ministry informed him about options for obtaining the documents requested, he is having trouble with those options. He argued that he has a "bad memory" and difficulty with communication skills; he doesn't remember being asked to submit a letter from his bail supervisor. The appellant also argued that he did not receive the ministry's June 20 letter as he had moved to another recovery house. The appellant stated that he did receive the July 9 letter and called the ministry to explain his situation. He stated that he moved several times and did not get the other letters the ministry sent to him. He stated that he thought everything was OK because his August cheque had been released and he was "working on it". The appellant argued that he did not receive the ministry's letter with the bank profile forms and, since the appeal, he has now submitted the bank profile forms requested and the IO can now get his information from the banks. He stated that the only outstanding item is confirmation of his living situation for a period in 2017. The appellant explained that during this period, he was living with one of his friends but only lived there for a short period because they got in a fight and he left. He stated that he no longer has any connection to that person and cannot get in touch with him because he no longer lives at that address. The appellant argued that he is on a CSO and lives in a recovery society where he needs to be able to provide rent. He stated that he has 4 months sobriety and is doing well in his programs but that getting "kicked off" of assistance will lead him back to the streets and back to jail.

#### Ministry

The ministry relied on the reconsideration decision.

In response to questions from the panel, the ministry representative confirmed that: the ministry did send the bank profile forms to the appellant; the ministry has not received the appellant's bank profile forms; and the ministry does not have these forms on his file.

#### **Admissibly**

The panel finds that the information provided in the appellant's Notice of Appeal consists of argument, which does not require an admissibility determination in accordance with section 22 (4)(b) of the *Employment and Assistance Act*. The panel finds that the information provided in the appellant's hearing submission consists of a combination of argument and some elaboration and clarification of information that was before the ministry at reconsideration. The panel finds the content of the appellant's submission is admissible in accordance with section 22 (4)(b) of the *Employment and Assistance Act*.

[REDACTED]

**PART F – REASONS FOR PANEL DECISION**

The issue in this appeal is whether the reconsideration decision, denying the appellant income assistance under section 10 of the EAA because he failed to provide information requested by the ministry, is a reasonable application of the legislation or reasonably supported by the evidence.

The following section of the *Employment and Assistance Act* applies to this appeal:

**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.

The following section of the *Employment and Assistance Regulation* applies to this appeal:

**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.

The ministry's position, as set out in the reconsideration decision, is that the appellant is not eligible for income assistance due to failing to provide information as directed, pursuant to section 10 of the Employment and Assistance Act. The ministry argued that at the time the original decision was made in

September, the only documentation the appellant had provided was a copy of his bail order. The ministry further argued that at the appellant didn't provide any of the other information requested until reconsideration. The ministry submitted that at reconsideration the appellant provided tax and relationship information but has still not provided all of the information requested by the ministry in the audit.

The appellant's position is that he has provided most of the information requested and is not unwilling to provide the other information requested; he wants to keep his housing and stay healthy and clean. He stated that he has now provided the bank profile forms and needs to stay on assistance in order to stay out of jail. He stated that he did not receive all of the ministry's letters and may have misunderstood the instructions that were provided because of his learning and communication difficulties. He stated that he told the ministry on a phone call about the missing information regarding his living situation in 2017 but cannot recall when that was or to whom he spoke. He stated that it had never crossed his mind to consider providing that information to the ministry in writing.

Section 10 of the EAA states that the minister may direct a recipient to supply verification of any information he or she supplied or was received by the minister if that information relates to the eligibility of the family unit for income assistance and if the recipient fails to comply with the direction, the minister may declare the family unit ineligible for income assistance for the prescribed period. Section 32(1) of the Employment and Assistance Regulation states that the family unit is ineligible for assistance until the recipient complies with the direction to supply the information.

The panel finds that the ministry's request for information from the appellant falls squarely within section 10 of the EAA. The panel finds that the evidence establishes that at reconsideration, the appellant had not provided the ministry with all of the information that had been requested. Further, the panel finds that the appellant had not provided an explanation to the ministry for his failure to provide the missing information. The panel notes that the ministry made multiple efforts to assist the appellant with the process, providing him with information to assist him in obtaining the information requested without breaching his bail order. The panel finds that the appellant did not make corresponding efforts to cooperate with the ministry and keep the ministry informed.

The panel notes, in particular, that the appellant's evidence is that he submitted the bank profile forms after the appeal and that he had never considered providing information about his living situation in 2017 to the ministry in writing. Given the appellant's lack of clarity and detail in his testimony, the panel is not persuaded by the appellant's assertion that he informed the ministry about this living situation during a phone call. The panel notes that the ministry's notes provided on appeal do not reflect the ministry having received this information. Furthermore, the panel notes that each of the letters sent by the ministry specifies that this information is required and has not been received. Accordingly, the panel finds that the evidence establishes that the appellant did fail to comply with the Ministry's request to provide information under section 10 of the EAA.

The panel determines that the ministry's decision to deny the appellant income assistance for failing to provide information is reasonably supported by the evidence.

### **Conclusion**

The panel finds that the ministry's reconsideration decision, denying the appellant income assistance is reasonably supported by the evidence. The panel confirms the ministry's reconsideration decision. The appellant is not successful on appeal.

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<b>PART G – ORDER</b>	
THE PANEL DECISION IS: (Check one) <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> BY MAJORITY	
THE PANEL <input checked="" type="checkbox"/> CONFIRMS THE MINISTRY DECISION <input type="checkbox"/> 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? <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>LEGISLATIVE AUTHORITY FOR THE DECISION:</b> <i>Employment and Assistance Act</i> Section 24(1)(a) <input checked="" type="checkbox"/> or Section 24(1)(b) <input type="checkbox"/> and Section 24(2)(a) <input checked="" type="checkbox"/> or Section 24(2)(b) <input type="checkbox"/>	

<b>PART H – SIGNATURES</b>	
PRINT NAME Jennifer Smith	
SIGNATURE OF CHAIR	DATE (YEAR/MONTH/DAY) 2018/12/10

PRINT NAME Joe Rodgers	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2018/12/10

PRINT NAME Charlie Schellinck	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2018/12/10