

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated January 22, 2019 which found that the appellant would be denied assistance pursuant to Section 10 of the Employment and Assistance Act as she failed to provide all the requested information necessary to determine eligibility as set out in Section 32 of the Employment and Assistance Regulation.

PART D – RELEVANT LEGISLATION

Employment and Assistance Act (EAA), Section 10

Employment and Assistance Regulation (EAR), Section 32

PART E – SUMMARY OF FACTS

The appellant requested an adjournment at the beginning of the hearing. When the procedure for making the adjournment decision was shared, the appellant withdrew her request.

The appellant has been in receipt of income assistance as a sole recipient with a 3 year old dependent child. She has been in receipt of assistance since December 2014.

Summary of key dates

- **August 28, 2018**
 - The appellant was informed by the ministry her file was under review and she was requested to submit documents related to rent, bank accounts, investments, and documents in terms of a spouse and/or dependents.
- **September 20, 2018**
 - A second request for the information was made by the ministry. The appellant's November assistance cheque would be held until the information had been provided.
- **October 12, 2018**
 - The appellant supplied information in regards to rent, as well as a bank statement. The ministry released the signal from the appellant's November assistance.
- **October 16, 2018**
 - The ministry spoke to the appellant advising her a Bank Profile was still required.
- **November 1, 2018/December 3, 2018**
 - The appellant spoke to a ministry worker letting them know she was married in 2011 and that she has a child born in 2017 who is not on file.
 - The ministry sent a third letter advising the appellant she was required to provide all the information requested and more.
 - Documents requested were related to the appellant's husband, second child, bank accounts, income tax notice of assessment, tax slips, lease agreement, confirmation of EI benefits and confirmation of the status of a settlement for a MVA.
- **December 12, 2018**
 - The ministry advised the appellant she no longer was eligible for assistance due to failing to provide the information requested.
- **December 16, 2018**
 - The appellant submitted a Bank Profile.
- **December 20, 2018**
 - The appellant submitted a Request for Reconsideration.
 - Documents included in the request were a letter from the appellant's lawyers in terms of the MVA and a birth certificate of her second child.
 - The appellant requested and received an appeal supplement for December and January.
 - The ministry extended the reconsideration decision deadline to January 22, 2019 to allow time for the additional information.
- **January 18, 2019**
 - The appellant advised the ministry she was unable to supply documents in terms of her husband.

- **January 22, 2019**

- The ministry contacted the appellant leaving a voice message advising her of the deadline for the information required. The appellant returned the call and stated she had requested the tax and EI information and that it was being mailed. She also informed the ministry she could not supply the information about her spouse.

Information before the ministry at reconsideration:

- **Request for Reconsideration** dated December 20, 2018 which contained:
 - **Appellant's Reason for request for reconsideration stated:**
 - Reconsideration be given as additional information was attached.
 - The rest of the information would be handed in very soon.
 - She has not been well and has been unable to hand documents in.
 - She does not have all the documents but she will get them.
 - She needs the assistance as it is her only income, she has two kids, and it's very hard for her.
- **A letter from the appellant's lawyers** dated November 23, 2018 which stated in regards to a motor vehicle accident 2014, the appellant's claim was dismissed 2017 and she did not receive a settlement or any proceeds as a result of the claim. The appellant's claim is now closed.
- **Birth Certificate of the appellant's son** which notes her son's birth date is 2017

Additional Information

- In the **Notice of Appeal** dated January 21, 2019 the appellant stated:
 - She is still waiting for mailed documents to arrive.
 - She needs the assistance to care for her two kids as she has no income.
- **Faxed Submission by the appellant** dated February 19, 2019 which included:
 - Page 2 of Tax assessments for 2015, 2016, 2017.
- **At the hearing the appellant stated:**
 - She is trying her best to produce all required documents.
 - She is trying to obtain her EI information.
 - As far as her rent, she pays her father and has nothing to do with the landlord and doesn't know the details of her father's rental agreement with the landlord.
 - Tax forms such as T4s have been thrown away.
- **At the hearing the ministry stated:**
 - The appellant has outstanding documentation which is required to allow the ministry to determine if she is eligible for income assistance.
 - The ministry representative offered the appellant advice in terms of satisfying the ministry's requests for outstanding documentation.

Admissibility of New Information

Section 22(4) of the *Employment and Assistance Act* states that the panel is empowered to admit as evidence only “the information and records that were before the minister when the decision being appealed was made” and “oral or written testimony in support of” the record of the ministry decision. If the additional evidence substantiates or corroborates the information and records before the minister at the reconsideration stage, the evidence should be admitted; if it does not, then it does not meet the test of admissibility under s. 22(4)(b) of the *Employment and Assistance Act* and should not be admitted.

When asked if the ministry objected the acceptance of the additional evidence, the ministry stated they objected the acceptance of the documents as evidence as they were incomplete, all three tax assessments were missing page one which contains important information and the tax assessment of 2015 did not have adequate timeline identification(date was hand written).

The panel considers the three tax assessment documents as admissible as the documents substantiates the information and records before the minister at the reconsideration stage in terms of tax and income documentation requested. However, the weight of this evidence is minimal as the documentation was incomplete (page one of each assessment was missing) and the date of the 2015 assessment was hand written.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is whether the ministry's reconsideration decision dated January 22, 2019 which found that the appellant is not eligible for assistance pursuant to Section 10 of the EAA because she failed to provide all the requested information necessary to determine eligibility as set out in Section 32 of the EAR was reasonably supported by the evidence or a reasonable application of the applicable legislation in the circumstances of the appellant.

Relevant Legislation:

Employment and Assistance Act

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.

Employment and Assistance Regulation

Division 3 — Factors Related to Providing Information and Verification

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.

Ministry's Position

Based on the information provided the ministry determined the appellant was ineligible for income assistance due to failing to provide documentation requested.

Upon review of the reconsideration request the ministry has determined requested information in terms of the appellant's spouse is not required.

However, the ministry determined the appellant remains ineligible for income assistance because the appellant has failed to supply the following documents:

- Income tax notice of assessment and/or copies of the appellant's completed tax returns for 2015, 2016, and 2017.
- Tax slips (T4's, T5'S, etc.) for the previous tax year including 2015, 2016, 2017 (including same for spouse and/or dependents).
- The appellant's lease agreement including phone number of property manager/owner.
- Confirmation of EI benefits for 2015 and 2016.

The ministry states the appellant has been given sufficient time to provide the outstanding documentation and that the appellant has no justification as to why she has not been able to provide the additional documents. Although the appellant stated she was delayed in supplying the documents as she was unwell, the ministry states they have not received any evidence that would support this claim.

Appellant's Position

The appellant states she is trying her best to supply the required documents but has been unable to obtain all the information. She is not aware of the rental situation as her father takes care of those matters, she is trying to obtain the information from the EI office, and she has thrown away tax documents.

Panel Decision

As no evidence in terms of medical issues affecting the appellant's ability to provide the requested documents was provided, the panel found the ministry reasonable to conclude that there is insufficient evidence the appellant was medically unable to obtain or submit the required documents.

The panel also found the appellant has made some effort to provide the information requested by the minister including the new evidence submitted during the hearing as required by Section 10 of the EAA but has not provided all the information required. Missing information includes confirmation of 2015,2016 EI benefits, complete tax assessments for 2015, 2016, 2017, tax slips (T-4, T-5, etc.), rental/lease agreement/situation and landlord's name and phone number. 10(4) EAA states that " 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." Section 32(1) of the EAR states, "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."

The panel finds that the ministry decision that the appellant would be denied assistance pursuant to Section 10 of the Employment and Assistance Act as she failed to provide all the requested information necessary to determine eligibility as set out in Section 32 of the Employment and Assistance Regulation was a reasonable application of the applicable legislation in the circumstances of the appellant and therefore confirms the decision. The appellant is not successful on appeal.

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

Charles Schellinck

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019/02/22

PRINT NAME

Marnee Pearce

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/02/22

PRINT NAME

Carman Thompson

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/02/22