

APPEAL NUMBER

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated May 15, 2019, which found that the appellant is not eligible for assistance under Section 10 of the *Employment and Assistance Act* (EAA) for failing to comply with a direction to supply requested information and verification. The ministry found that the appellant continues to be ineligible for assistance pursuant to Section 32 of the *Employment and Assistance Regulation* (EAR) because he has not fully complied with the direction since requested information remained outstanding, namely: statements for all bank accounts for the past 90 days.

PART D – RELEVANT LEGISLATION

Employment and Assistance Act (EAA), Section 10

Employment and Assistance Regulation (EAR), Section 32

PART E – SUMMARY OF FACTS

With the consent of both parties, the hearing was conducted as a written hearing, pursuant to section 22(3)(b) of the Employment and Assistance Act.

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

- 1) Letter from the ministry dated January 9, 2019 requiring that the appellant provide documents by January 24, 2019 as set out on an enclosed "Review Checklist," specifically:
 - Copy of current government picture ID,
 - If renting, copies of Residential Tenancy Agreement, current rent receipts and utility bills,
 - Proof of all sources of income received from a particular company for the period from January 2016 to present,
 - Statements for all bank accounts for the last 90 days,
 - Confirmation of all accounts, assets, or investments from each financial institution at which he has an account, showing current balance and all transactions in the last 90 days. For a particular bank, provide a profile showing the dates accounts were opened or closed,
 - 2016 and 2017 Notices of Assessment
 - Tax slips for the taxation years 2016, 2017 and 2018;
- 2) Letter from the ministry dated February 6, 2019 requiring that the appellant provide documents by February 28, 2019 as set out on an enclosed "Review Checklist," specifically:
 - If renting, copies of Residential Tenancy Agreement, current rent receipts and utility bills; or, home owner shelter costs, mortgage documents, insurance, taxes and utilities;
 - Proof of all sources of income received from particular companies for the period from January 2016 to present,
 - Statements for all bank accounts for the last 90 days,
 - Confirmation of all accounts, assets, or investments from each financial institution at which he has an account, showing current balance and all transactions in the last 90 days. For a particular bank, provide a profile showing the dates accounts were opened or closed,
 - 2016 and 2017 Notices of Assessment
 - Tax slips for the taxation years 2016, 2017 and 2018;
- 3) Letter from the ministry dated February 28, 2019 advising the appellant that he was no longer eligible for assistance as a result of his failure to provide particular documents requested by the ministry, specifically:
 - If renting, copies of Residential Tenancy Agreement, current rent receipts and utility bills; or home owner shelter costs (mortgage payments, insurance, taxes and utilities);
 - Statements for all bank accounts for the last 90 days,
 - Confirmation of all accounts, assets, or investments from each financial institution at which he has an account, showing current balance and all transactions in the

last 90 days;

- 4) Letter from the ministry dated April 1, 2019 referring to the previous letters dated January 9, February 6 and February 28, 2019 and advising the appellant that he was no longer eligible for assistance as a result of his failure to provide particular documents requested. The ministry enclosed a Review Checklist setting out the required documents, that included:
 - If renting, copies of Residential Tenancy Agreement, current rent receipts and utility bills; in particular, rent receipts from January 1, 2019 to date and landlord contact information; or, home owner shelter costs (mortgage payments, insurance, taxes and utilities); or, confirmation of current address, shelter arrangements and expenses;
 - If the appellant had a bank account, he was to provide a printed confirmation of all accounts, assets or investments from each financial institution where he has an account, as well as a 90-day bank statement for each account appearing on the printed summary; in particular, information relating to a named bank;
 - Identification;
- 5) Copy of the February 6, 2019 letter from the ministry marked "returned mail," dated May 7, 2019;
- 6) Request for Reconsideration dated May 8, 2019 with which the appellant provided the following documents:
 - Rent Receipt dated March 1, 2019 to the mother of the appellant's children for the sum of \$1,295;
 - Copy of first page of the April 1, 2019 letter from the ministry with a handwritten check mark beside the requested "bank account information,"
 - Letter dated April 15, 2019 from the mother of the appellant's children, advising that the appellant has primary care for their two children,
 - First page of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated May 6, 2019 marked "could not afford", with the mother of the children identified as the tenant,
 - Print out of bank statement dated May 7, 2019 with a handwritten note and bank stamp indicating that the appellant "has no products" with the bank as of that date;

In his Notice of Appeal dated May 22, 2019, the appellant expressed his disagreement with the ministry's reconsideration decision and wrote that he submitted the banking information but it was not considered by the ministry.

Prior to the hearing, the ministry provided an email dated June 17, 2019 advising that the ministry's submission on the appeal is the reconsideration summary.

The panel considered that there was no additional information for which a determination of admissibility was required under Section 22(4)(b) of the *Employment and Assistance Act*.

PART F – REASONS FOR PANEL DECISION

The issue on appeal is whether the ministry's decision, which found that the appellant is not eligible for assistance under Section 10 of the EAA for failing to comply with a direction to supply requested information and continues to be ineligible for assistance pursuant to Section 32 of the EAR 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 EAA provides:

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.

Section 32(1) of the EAR provides that:

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.

Panel decision

Section 10 of the EAA and Section 32 of the EAR

Pursuant to Section 10(1)(b)(g) and (e) of the EAA, the ministry may direct a recipient of income assistance to supply the ministry with information and verification of 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 income assistance until the recipient complies with the direction [Section 10(4) of the EAA and Section 32 of the EAR].

In the reconsideration decision, the ministry wrote that the ministry sent a letter to the appellant dated January 9, 2019, requiring the appellant to provide the ministry with certain documents, specifically: a copy of current government picture ID; if renting, copies of Residential Tenancy Agreement, current rent receipts and utility bills; proof of all sources of income received from a particular company for the period from January 2016 to present; statements for all bank accounts for the last 90 days; confirmation of all accounts, assets, or investments from each financial institution at which he has an account, showing current balance and all transactions in the last 90 days; for a particular bank, provide a profile showing the dates accounts were opened or closed; 2016 and 2017 Notices of Assessment; and, tax slips for the taxation years 2016, 2017 and 2018.

While there was a copy of a letter to the appellant from the ministry dated February 6, 2019, which was marked "returned mail," the appellant did not dispute receiving the January 9, 2019 letter from the ministry or the similar letters dated February 28, 2019 and April 1, 2019, which letters included the same list of documents required by the ministry as that set out in the January 9, 2019 letter to the appellant. With his Request for Reconsideration, the appellant included a copy of the first page of the April 1, 2019 letter from the ministry, which indicates that he had received it.

The ministry wrote in the reconsideration decision that the appellant had provided the requested Notices of Assessment for 2016 and 2017 and tax slips for two of the requested three years, as well as a rent receipt for March 2019 and an eviction notice for a residence for which the appellant was not named as a tenant. Although the appellant had not provided the copy of his current government picture ID or the proof of all sources of income received from the particular companies, the ministry did not refer to the failure to provide these documents, or the deficiencies noted with his shelter information, as the basis for the ministry decision. The ministry wrote that the ministry directed the appellant to provide verification of the statements for all bank accounts for the past 90 days from a particular financial institution and the ministry

determined that, although the appellant had provided a print out from the bank, the appellant had not complied with this direction. The ministry wrote that the print out from the particular bank indicated that the appellant was a customer since January 8, 2018 and noted that he has had no products with the bank "since" May 7, 2019.

The direction by the ministry regarding bank account information, as set out in the Review Checklist enclosed in the April 1, 2019 letter, indicated that if the appellant had a bank account, he was to provide a printed confirmation of all accounts, assets or investments from each financial institution where he has an account, as well as a 90-day bank statement for each account appearing on the printed summary. However, the April 1, 2019 letter from the ministry also referred to the previous letters to the appellant, including those dated January 9, and February 28, 2019, which consistently directed the appellant to provide statements for all bank accounts for the last 90 days. In his Notice of Appeal, the appellant argued that he submitted the banking information but it was not considered by the ministry, which the appellant supported with a print out from the bank. The print out of the bank statement provided by the appellant indicated that he had been a customer of the bank since January 8, 2019 and included a note and bank stamp indicating that the appellant "has no products" with the bank "as of May 7, 2019," with no statements to verify when the accounts, or "products," the appellant previously held were closed or whether there had been any activity within the last 90 days.

Given the ministry's ongoing direction in several letters to the appellant to provide statements for any bank accounts for the last 90 days, the panel finds that the ministry reasonably concluded that a statement by the particular bank that there were no products on one specific day does not comply with the ministry's direction regarding bank account information. For clarity, the panel finds that the ministry decision is unaffected by any distinction between the bank print out being described as showing no products "since" versus "as of" the date it was issued as both descriptions fail to refer to the transaction history required by the ministry.

Section 32 of the EAR provides that the period for which the ministry may declare the family unit ineligible for assistance lasts until the recipient complies with the direction. The panel finds that the ministry's conclusion on May 15, 2019, that the appellant continued to be ineligible for income assistance pursuant to Section 32 of the EAR, was reasonable since the panel finds that the ministry reasonably determined that the appellant had not complied with the ministry's direction to provide statements for all bank accounts for the last 90 days.

Conclusion

The panel finds that the ministry's decision was reasonably supported by the evidence and a reasonable application of the applicable enactment in the appellant's circumstances. Accordingly, the panel confirms the ministry's reconsideration decision. Therefore, the appellant's appeal is not successful.

APPEAL NUMBER

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)

2019-06-27

PRINT NAME

Linda Pierre

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019-06-27

PRINT NAME

Kent Ashby

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019-06-27