

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 August 23, 2019 where the ministry concluded the appellant was not eligible for assistance as a single parent with four dependant children.

PART D – RELEVANT LEGISLATION

Employment and Assistance Act (EAA), Section 1, 2 and 10

PART E – SUMMARY OF FACTS**Information before the ministry at reconsideration:**

On December 31, 2018 the appellant applied for income assistance as a sole applicant with five dependant children. The ministry determined that the appellant did not have legal custody of the appellant's grandchild and could not be added as a dependant.

The appellant was not able to provide proper identification for the children and was not receiving Canada Child Benefits (CCB) for them. The appellant indicated that this was related to difficulties with an ex-spouse. Given the urgent nature of the application, the ministry accepted that the children were residing with the applicant and approved income assistance as a single parent with four dependant children. On February 7, 2019 the ministry was informed by the appellant of working with the school principal to determine whether the children should be registered or home schooled and of still not receiving CCB because of an ongoing investigation.

On March 12, 2019 the ministry responded to the appellant's request for a school start up allowance and requested that the appellant provide school registration for the children. The appellant did not respond. On May 23, 2019 the appellant advised the ministry that the children were in school and requested a school start up allowance. The ministry requested the appellant provide confirmation the children were registered in a school. On April 21, 2019 the appellant provided the ministry with a notice from the CRA indicating the appellant owed \$28,104.99 because of a CCB overpayment.

On July 16, 2019 the ministry reviewed the appellant's file and noted that, despite several requests the appellant had provided no evidence of why CCB was not providing benefits or that the children were registered in school. The ministry signalled the appellant's August cheque and mailed a request for the appellant to provide confirmation that the children were enrolled in school, confirmation the appellant had applied for CCB and a letter from a doctor, daycare provider, social worker or counsellor that could verify that the children were in the appellant's care.

On July 17 the ministry was informed the appellant did not have a court order for the children. On July 19, 2019 the appellant provided a letter from a volunteer retired counselor from a church which noted that the counsellor has been meeting with the appellant and the four children and that the children were in the appellant's care. The appellant also provided rent receipts for June, July and August of 2019. On July 22, 2019 the appellant provided a screen shot of a typed document identifying the counsellor as a doctor and registered physiologist which states that the appellant is the full-time caregiver of the appellant's children. The appellant also provided a note indicating the appellant had spoken to a representative of the school board office who indicated the appellant cannot access registration until September 5, 2019. The ministry worker reviewed the documents and became concerned by several grammatical errors and discrepancies in the document and contacted the church who indicated that there was no counsellor with the church in the name indicated. The ministry offered to participate in a three-way conversation with the CCB and the appellant. The appellant declined this offer.

On July 23, 2019 the appellant requested the children be removed from the file until such time as the appellant could provide the required documents. The ministry provided August assistance as a sole recipient and informed the appellant that in order to receive assistance for the children the following would need to be provided:

- Verifiable school registration for all four children.
- Letter from a professional in current practise who can verify the children live with the appellant suggesting a number of acceptable providers.
- Confirmation of the status of the CCB application.

On August 12, 2019 the appellant submitted a request for reconsideration noting:

- that the appellant was leaving an abusive relationship and owes \$29,000.00 to the CCB because the abuser called CCB and lied about the appellant.
- The appellant stated that the school board informed the appellant that they cannot do anything until September.
- The appellant had provided the ministry with rent receipts and a letter from a volunteer senior counsellor.

- The appellant was couch surfing and had to pay the rent by the 15th.

Notice of Appeal

On August 26, 2019 the appellant signed a Notice of Appeal which indicated feeling that the ministry decision was not fair and stating that the appellant was a struggling parent who left abuse. "The government should help those in need. You make it so I have become homeless. I don't think its fair".

Hearing

The teleconference hearing was held on October 17, 2019. At the designated time the appellant had not joined the teleconference. After a delay of at least five minutes and after verifying that the appellant's Notice of Hearing was received the hearing continued in the appellant's absence. The appellant did not appear at the hearing through to its conclusion.

In accordance with section 22(4) of the Employment Assistance Act, the panel may only admit evidence that was before the ministry at the time of reconsideration and evidence that is in support of the information and records that were before the ministry at the time of reconsideration. The panel determined that there was no additional information provided outside of that available at reconsideration.

The ministry representative outlined the ministry position for the panel which consisted of a summary of events as stated in the reconsideration decision. In response to a question from the panel the ministry representative stated that there was no information on their file as to the reasons behind the CRA's claim for overpayment of CCB from the appellant. In response to another question, the ministry representative reiterated the ministry's concerns about the appellant's documents purported to be from individuals that the ministry could not confirm existed and which bore other indicia of not being authentic.

PART F – REASONS FOR PANEL DECISION

The issue on appeal is whether the ministry decision to deny the appellant assistance as a single parent with four dependant children was a reasonable application of the legislation in the appellant's circumstances or was reasonably supported by the evidence.

Relevant Legislation**EMPLOYMENT AND ASSISTANCE ACT****Interpretation 1.**

(1) In this Act:

"dependant", in relation to a person, means anyone who resides with the person and who

- (a) is the spouse of the person,
- (b) is a dependent child of the person, or
- (c) indicates a parental role for the person's dependent child;

"dependent child", with respect to a parent, means a child, other than a child who is 18 years of age and is a person with disabilities, who resides in the parent's place of residence for more than 50% of each month and relies on that parent for the necessities of life, and includes a child in circumstances prescribed under subsection

(2)

Eligibility of family unit

2. For the purposes of this Act, a family unit is eligible, in relation to income assistance, hardship assistance or a supplement, if

- (a) each person in the family unit on whose account the income assistance, hardship assistance or supplement is provided satisfies the initial and continuing conditions of eligibility established under this Act, and
- (b) the family unit has not been declared ineligible for the income assistance, hardship assistance or supplement under this Act. 2002-40-2; 2007-14-212,215 (B.C. Reg. 354/2007).

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.

Ministry Decision

The ministry reconsideration decision is that the appellant has been unable to satisfy the ministry's requests for information under EAA, Section 10 and that are required to verify that the children live with the appellant. The ministry notes the following as being insufficient for them to determine that the children are in the care of the applicant.

- Appellant states that the ex-spouse has caused difficulty with the CRA resulting in an overpayment of CCB. The ministry notes they have access to CRA data match and they are unable to verify that the appellant has been deemed eligible but denied because of a debt. This information indicates to the ministry that the children may not reside with the appellant and the appellant has declined offers from the ministry to assist.
- The two documents from the retired counsellor are not considered as verification that the children live with the appellant because of grammatical errors in letters of support not typical for a professional and the ministry research is unable to confirm the professional status of the counsellor as a doctor, registered physiologist, or church volunteer, as were each claimed.
- The ministry is not able to establish where the appellant lives and who is residing with the appellant. The request for reconsideration indicates the appellant is 'couch surfing' and must pay the rent by the 15th, despite having provided a receipt indicating the appellant has paid August rent.

The ministry thus finds there is insufficient evidence to verify the children live with the appellant and rely on the appellant for the necessities of life. Therefore, the ministry is unable to establish that any of the children are a dependant child for the purposes of determining family size and accordingly the appellant is not eligible for income assistance as a sole recipient with four dependant children.

Appellant's Position

The appellant is a sole provider who claims to have "left a life and death abusive relationship". The appellant came to this province to protect five children (panel note: four children and grandchild) and is now trying to put a life together. The ministry "requested paperwork a few days prior to end of July payment for August, proving I have my children. CCB states I am still owing 29 thousand dollars". The appellant's abuser is in contact with CCB and the appellant is now under investigation. The appellant was in contact with the school board and was informed that nothing can be done until September 5, 2019 when school resumes. The appellant states that "I submitted rent receipts and a letter from a volunteer senior counsellor that we were seeing". The appellant is struggling as "I am now couch surfing with 5 kids and I have until the 15th to pay the remaining balance of my rent". The appellant also tried to have the children attend camp and "I have submitted this on self serve a letter confirmation that they were to attend camp. They could not attend due too the ministry". "I am hoping for a Recon supplement".

Panel Decision

The ministry has documented that after responding to an urgent request for assistance for the appellant as a sole provider with four dependant children, the appellant has been afforded every opportunity to document that the children are living with and are under the care of the appellant. The appellant has either not responded to the requests or has provided information that the ministry has been unable to verify.

The panel notes that under the provisions of the EAA, Section 2, that the appellant must satisfy the conditions of eligibility before receiving the assistance requested. Under EAA, Section 1, the measure of eligibility of a dependant child for assistance is that, among other things, the child must reside in the parent's place of residence for more than 50% of each month and relies on that parent for the necessities of life. The EAA Section 10 requires that the appellant submit to ministry requests for documents and information it requires to determine eligibility. The

panel agrees that the ministry has been unable to reasonably determine the eligibility of the appellant's children and notes that the removal of the children from the record was at the request of the appellant. In the panel's view the appellant has not satisfied the requests for documents and information from the ministry sufficient for the ministry to determine eligibility. That failure to be satisfied included not being satisfied that certain documents supplied by the appellant were authentic. The panel was similarly not convinced. Therefore, the panel concludes that it was a reasonable application of the legislation for the ministry to find the appellant was not eligible for assistance as a sole provider with dependant children.

Conclusion

The panel confirms the ministry reconsideration decision as it was a reasonable application of the legislation. The appellant is not successful upon appeal.

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

Keith Lacroix

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019/10/17

PRINT NAME

Kent Ashby

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/10/17

PRINT NAME

Gurjit Chaplin

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/10/23