

APPEAL NUMBER

2020-00168

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated May 5, 2020 in which the ministry found that the appellant is not eligible for income assistance, pursuant to Section 11(2)(a) of the Employment and Assistance Regulation (EAR), as the appellant is a sole applicant with no dependent children and has assets with a total value of more than \$5,000.

**PART D – RELEVANT LEGISLATION**

Employment and Assistance Regulation (EAR), Sections 1 and 11.

*Employment and Assistance Act* (EAA), Section 2.

**PART E – SUMMARY OF FACTS**

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

- 1) Undated “Proof of Means of Financial Support” that purports to include bank balance statements from two banks in another country and an investment bond statement from one bank in the other country. The funds shown in the account balance statement is \$203,000 CAD, from the investment bond is \$12,622.59 CAD and from the account balance statement in another bank is \$158,177.79. The total amount of these funds is \$373,800.38 CAD. There is also \$35,000 USD cash that will be taken to Canada;
- 2) Copy of a pop-up properties window on the computer indicating the Proof of Means of Financial Support document was created September 16, 2019;
- 3) Bank Account balance statement in the name of a third party from one bank in another country dated September 15, 2019 indicating a total balance of \$203,000;
- 4) Investment Bonds Statement in the name of a third party from the same bank in another country dated September 15, 2019 indicating a total balance of \$12,622.59 CAD;
- 5) Bank Account balance statement in the name of a third party from another bank in the other country dated September 15, 2019 indicating a balance of \$158,177.79;
- 6) Copy of the appellant’s passport indicating the third party as the appellant’s father;
- 7) Print out of a statement of accounts at one bank in the appellant’s name indicating a balance of \$11,389.97 in deposit accounts that include funds in Canadian and US dollars, \$20,000 in non-registered investments, \$9,731.86 in registered investments, including a TFSA savings account;
- 8) Print out of a statement of accounts in the appellant’s name at another bank indicating a balance of \$77.40 in both Canadian and US dollars in chequing and savings accounts as well as \$10,000 in a GIC in US dollars; and,
- 9) The appellant’s Request for Reconsideration dated April 22, 2020.

In the Request for Reconsideration, the appellant wrote that:

- The appellant applied for income assistance on April 3, 2020 and the appellant firmly believes the appellant is eligible to receive income assistance.
- The appellant has been denied assistance because there is more than \$5,000 CAD in the appellant’s bank accounts. The appellant has declared that this money does not belong to the appellant but to the appellant’s father who is a visitor to Canada and the appellant is a trustee for the safekeeping of his money in Canada.
- The ministry asked that the appellant prove that this money belongs to the appellant’s father and the appellant already proved these funds belong to the appellant’s father.
- When the appellant’s father applied to get a visitor visa in September 2019 to come to Canada, he had clearly declared in his proof of means of financial support letter that he was going to bring \$35,000 USD in cash with him to Canada to pay for all his own expenses and trips and in case he requires any medical care if he gets sick during his stay in Canada as he is over 60 years old.
- The appellant provided a copy of the proof of means of financial support submitted with the appellant’s father’s visitor visa application.
- Upon arriving in Canada, the appellant’s father had to put his money in a safe place and the bank is safe but does not open accounts for visitors. According to the bank’s suggestion, the appellant’s father had no choice other than putting his own funds under the appellant’s name as his trustee in the bank for safekeeping. The appellant’s father is

currently accessing and using these funds for his living expenses in Canada.

- The appellant has studied for 25 years, without any gaps, until the appellant acquired an academic designation in 2019 so the appellant never had a chance to work and earn this much money and, hence, there is no possibility the funds could belong to the appellant.
- These funds in the two banks do not at all belong to the appellant and belong only to the appellant's father.
- Upon arriving in Canada, the appellant's father had to put his money in a safe place and logically nowhere could be safer than the bank while the banks do not open accounts for visitors. Therefore, the appellant's father followed the banks' suggestion and had no choice other than putting his own funds under the appellant's name as his trustee in the banks for safekeeping.
- The appellant is in a difficult situation as the appellant has not been able to get a job due to the COVID19 pandemic and it has been hard to make ends meet and this has made the appellant mentally sick and depressed and in urgent need of assistance until the appellant can get a job.

### ***Additional Information***

In the Notice of Appeal dated June 24, 2020, the appellant expressed disagreement with the ministry's reconsideration decision and wrote:

- The appellant applied for income assistance on April 3, 2020 and firmly believes that the appellant is eligible to receive income assistance. The money in the appellant's bank accounts belongs to the appellant's father.
- When the appellant's father wanted to apply to get a visitor visa in September 2019 to come to Canada, he had already declared in the Proof of Means of Financial Support letter that he was going to bring \$35,000 USD with him to Canada to pay for all his own expenses and trips and in case he required medical care during his stay in Canada.
- The appellant has all the proofs available.

Prior to the hearing, the appellant provided the following additional documents:

- 1) Undated letter in which the appellant attached a copy of a message from the ministry asking the appellant to prove that the money in the banks belongs to the appellant's father as well as the appellant's response. The appellant wrote that:
  - The appellant proved the money belongs to the appellant's father using the proof of means of financial support document from the appellant's father, who submitted it on September 16, 2019 to get his visitor visa.
  - The appellant's father declared he was going to bring \$35,000 USD cash with him to Canada to pay his own expenses.
  - The banks do not open accounts for visitors like the appellant's father. The appellant's father had no choice as it was not logical to leave the money at home or to carry it with him outside.
  - The appellant's father put his money under the appellant's name in the banks as his trustee for safekeeping, according to the banks' suggestion.
- 2) Print-out of the "My Self Serve" screen with a message from the ministry asking the appellant to upload the document that proves that the money the appellant brought into Canada belongs to the appellant's father as well as the appellant's response providing

the Proof of Means of Financial Support that the appellant's father submitted to get a visitor visa;

3) Undated letter in which the appellant wrote that:

- The appellant applied for income assistance on April 3, 2020 and the appellant firmly believes the appellant is eligible to receive income assistance.
- The appellant was denied assistance because there is more than \$5,000 CAD in the appellant's bank accounts; however, the appellant had already declared that this money does not belong to the appellant but to the appellant's father.
- The appellant's father is a visitor in Canada and needs his money, which is his life savings over the years, to support himself as a person over 60 years of age during the COVID19 pandemic.
- The appellant is only his trustee for safekeeping of the appellant's father's money in Canada as banks do not open accounts for visitors.
- The appellant already proved that these funds belong to the appellant's father and then the ministry said that because the money is under the appellant's name in the banks, the appellant is still ineligible for income assistance.
- The appellant's father declared in his Proof of Means of Financial Support letter that he was going to bring \$35,000 USD cash with him to Canada to pay all his own expenses. The appellant's father prepared this document on September 16, 2019 and submitted it for his visitor visa application, which was accepted, and the immigration officer granted the visa to the appellant's father.

At the hearing, the appellant stated:

- Although there is more than \$5,000 in the appellant's accounts, the appellant already declared that it does not belong to the appellant.
- The appellant's father had already submitted to immigration officials the Proof of Means of Financial Support document and stated that he would bring \$35,000 USD to Canada to pay for all of his expenses.
- This Proof of Means document shows that the money belongs to the appellant's father. The appellant's father had to put his money in the bank and the two banks they approached advised that they cannot open an account for a visitor. The banks referred to the Government of Canada website regarding opening an account and certain documents are clearly required that are not available to visitors.
- With official status in Canada, the appellant was able to open accounts and put the appellant's father's money in the appellant's accounts. According to Canadian law, the accounts could only be held in the appellant's name.
- The appellant's father had no choice but to put his money in the appellant's accounts for safekeeping.
- If the banks had allowed them to open an account in the appellant's father's name, they would have done so.
- When the appellant spoke to the ministry on the telephone, the appellant was advised that the money could be in the appellant's name if the appellant could prove that the funds belonged to the appellant's father. The appellant provided a copy of the screen to show the Proof of Means document was created on September 16, 2019 and this was sufficient to grant the appellant's father visitor status in Canada.
- Now the ministry is saying that the appellant is ineligible because the accounts are in the

appellant's name.

- It is not the appellant's fault that the bank account is in the appellant's name as they complied with Canadian law.
- The bank did not provide them with a letter of refusal to open accounts in the name of the appellant's father. They did not ask for such a letter and the banks did not offer to provide one.
- They were told by the banks that they were following Canadian law and referred them to the Government of Canada website.
- The appellant's account was hacked and the bank advised against having all the funds in chequing accounts and so the funds were 'locked' in GIC's to protect against online hackers, although the funds are still liquid in being available for withdrawal on demand.
- Whenever the appellant's father wants funds, the appellant withdraws those funds and gives them to him. The appellant's father is not entitled to withdraw funds from the accounts.
- The banks did not mention anything about a trust document or anything to show that the appellant is acting like a trustee for the appellant's father.
- The appellant has had difficulty finding a job in the appellant's field and has not received any federal or provincial help so far.

At the hearing, the appellant's father stated:

- He brought his life savings to visit the appellant in Canada and also to visit the United States. With the pandemic, these plans have been delayed. The appellant has been working in Canada and now they both stay at home.
- After he visits for a while, he will return to his country of origin.
- He already declared in a letter to immigration that he would bring \$35,000 USD into Canada.
- When they went to the banks, there was no choice but to put his funds in the appellant's name. He trusts the appellant and considers the appellant like a trustee.
- Whenever he wants money, he asks the appellant to withdraw the money for him and the appellant withdraws the funds.
- He trusts the appellant and they are both being truthful.

The ministry relied on its reconsideration decision as summarized at the hearing. The ministry clarified at the hearing that it is open to the appellant to apply for income assistance again if the appellant's financial circumstances change.

### ***Admissibility of Additional Information***

The ministry did not object to the admissibility of the additional documents. The panel considered the testimony on behalf of the appellant and the additional documents provided by the appellant as relating to the ministry's denial of income assistance because the appellant has assets of more than \$5,000 and, therefore, as being reasonably required for a full and fair disclosure of all matters related to the decision under appeal pursuant to Section 22(4) of the *Employment and Assistance Act*.

**PART F – REASONS FOR PANEL DECISION**

The issue in this appeal is whether the ministry decision, which determined that the appellant is not eligible for income assistance pursuant to Section 11(2)(a) of the EAR as the appellant is a sole applicant with no dependent children and has assets with a total value of more than \$5,000, was a reasonable application of the applicable legislation in the circumstances of the appellant, or was reasonably supported by the evidence.

The relevant sections of the legislation are as follows:

**Section 2** of the EAA provides:**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.

**Section 1** of the EAR provides relevant definitions as follows:**Definitions**

1 (1) In this regulation: . . .

**"asset"** means

- (a) equity in any real or personal property that can be converted to cash,
- (b) a beneficial interest in real or personal property held in trust, or
- (c) cash assets; . . .

**"cash assets"** in relation to a person, means

- (a) money in the possession of the person or the person's dependant,
- (b) money standing to the credit of the person or the dependant with
  - (i) a savings institution, or
  - (ii) a third partythat must pay it to the person or the dependant on demand,
- (c) the amount of a money order payable to the person or the dependant, or
- (d) the amount of an immediately negotiable cheque payable to the person or the dependant;

**Section 11** of the EAR provides:**Asset limits**

11 (1) The following assets are exempt for the purposes of subsections (2) and (2.1):

- (a) clothing and necessary household equipment;
- (b) one motor vehicle generally used for day to day transportation needs;
- (c) a family unit's place of residence;
- (d) money received or to be received from a mortgage on, or an agreement for sale of, the family unit's previous place of residence if the money is
  - (i) applied to the amount owing on the family unit's current place of residence, or
  - (ii) used to pay rent for the family unit's current place of residence;
- (e) a Canada child tax benefit;
- (e.1) a Canada child benefit;
- (f) a goods and services tax credit under the Income Tax Act (Canada);
- (g) a tax credit under section 8 [refundable sales tax credit], 8.1 [climate action tax credit] or 8.2 [BC harmonized sales tax credit] of the Income Tax Act (British Columbia);
- (h) an uncashed life insurance policy with a cash surrender value of \$1 500 or less;
- (i) business tools;
- (j) seed required by a farmer for the next crop-year;
- (k) basic breeding-stock held by a farmer at the income assistance application date, and female stock held for stock replacement;
- (l) essential equipment and supplies for farming and commercial fishing;
- (m) fishing craft and fishing gear owned and used by a commercial fisher;
- (n) prepaid funeral costs;
- (o) individual redress payments granted by the government of Canada to a person of Japanese ancestry;
- (p) individual payments granted by the government of Canada under the Extraordinary Assistance Plan to a person infected by the human immunodeficiency virus;
- (q) individual payments granted by the government of British Columbia to a person infected by the human immunodeficiency virus;
- (r) individual payments granted by the government of Canada under the Extraordinary Assistance Plan to thalidomide victims;
- (s) money that is
  - (i) paid or payable to a person if the money is awarded to the person by an adjudicative panel in respect of claims of abuse at Jericho Hill School for the Deaf and drawn from a lump sum settlement paid by the government of British Columbia, or
  - (ii) paid or payable to or for a person if the payment is in accordance with the settlement agreement approved by the Supreme Court in Action No. C980463, Vancouver Registry;
- (t) money paid under the 1986-1990 Hepatitis C Settlement Agreement made June 15, 1999, except money paid under

section 4.02 or 6.01 of Schedule A or of Schedule B of that agreement;

(u) Repealed. [B.C. Reg. 197/2012, Sch. 1, s. 6 (e).]

(v) money paid to a person in settlement of a claim of abuse at an Indian residential school, except money paid as income replacement in the settlement;

(v.1) money that is paid or payable to or for a person if the payment is in accordance with

(i) the Sixties Scoop Settlement made November 30, 2017, or

(ii) the Federal Indian Day Schools Settlement made March 12, 2019, as amended May 13, 2019;

(w) post adoption assistance payments provided under section 28 (1) or 30.1 of the Adoption Regulation, B.C. Reg. 291/96;

(x) for a recipient who is participating in a self-employment program funded or established by the minister under section 7 of the Act,

(i) up to a maximum of \$5 000 kept by the recipient in a separate account described in section 4 (2) (b) (ii) of Schedule B, and

(ii) up to a maximum of \$50 000, or a greater amount approved by the minister, consisting of

(A) the value of assets used by the recipient in operating a small business under the self-employment program, and

(B) a loan that is not greater than the amount contemplated by the recipient's business plan, accepted by the minister under section 77.2 of this regulation, and received and used for the purposes set out in the business plan;

(y) assets exempted under

(i) section 12 (2) [asset development accounts],

(ii) section 13 (2) [assets held in trust for person receiving special care], or

(iii) section 13.1 (2) [temporary exemption of assets for person applying for disability designation or receiving special care];

(z) Repealed. [B.C. Reg. 85/2012, Sch. 1, s. 3.]

(aa) payments granted by the government of British Columbia under section 8 [agreement with child's kin and others] of the Child, Family and Community Service Act;

(bb) payments granted by the government of British Columbia under the Ministry of Children and Family Development's At Home Program;

(cc) Repealed. [B.C. Reg. 85/2012, Sch. 1, s. 3.]

(dd) payments granted by the government of British Columbia under an agreement referred to in section 93 (1) (g) (ii) of the Child, Family and Community Service Act, for contributions to the support of a child;

(ee) payments granted by the government of British Columbia under the Ministry of Children and Family Development's



- (i) Autism Funding: Under Age 6 Program, or
- (ii) Autism Funding: Ages 6 — 18 Program;
- (ff) funds held in a registered education savings plan;
- (gg) payments provided by Community Living BC to assist with travel expenses for a recipient in the family unit to attend a self-help skills program, or a supported work placement program, approved by Community Living BC;
- (hh) a Universal Child Care Benefit provided under the Universal Child Care Benefit Act (Canada);
- (ii) money paid by the government of Canada, under a settlement agreement, to persons who contracted Hepatitis C by receiving blood or blood products in Canada prior to 1986 or after July 1, 1990, except money paid under that agreement as income replacement;
- (jj) funds held in, or money withdrawn from, a registered disability savings plan;
- (kk) a working income tax benefit provided under the Income Tax Act (Canada);
- (ll) Repealed. [B.C. Reg. 180/2010, s. 1 (b).]
- (mm) the climate action dividend under section 13.02 of the Income Tax Act;
- (nn) money paid or payable to a person under the Criminal Injury Compensation Act as compensation for non-pecuniary loss or damage for pain, suffering mental or emotional trauma, humiliation or inconvenience that occurred when the person was under 19 years of age;
- (oo) money that is paid or payable to or for a person if the payment is in accordance with the settlement agreement approved by the Supreme Court in Action No. S024338, Vancouver Registry;
- (pp) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Family Support Services program;
- (qq) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Supported Child Development program;
- (rr) payments granted by the government of British Columbia under the Ministry of Children and Family Development's Aboriginal Supported Child Development program;
- (ss) a tax refund;
- (tt) a BC basic family bonus;
- (uu) money paid or payable from a fund that is established by the government of British Columbia, the government of Canada and the City of Vancouver in relation to recommendation 3.2 of the final report of the Missing Women Commission of Inquiry;
- (vv) payments granted by the government of British Columbia under the Temporary Education Support for Parents program;
- (ww) a BC early childhood tax benefit;
- (xx) money that is paid or payable by or for Community Living BC to or for a person if the payment is in accordance with an award in a legal proceeding or with a settlement agreement in respect of a claim for injury, loss or damage

caused by Community Living BC, an employee of Community Living BC or a person retained under a contract to perform services for Community Living BC;

(yy) money that is paid or payable by the government of British Columbia to or for a person if the payment is in accordance with an award in a legal proceeding or with a settlement agreement in respect of a claim for injury, loss or damage caused by the minister, the ministry, an employee of the ministry or a person retained under a contract to perform services for the ministry;

(yy.1) money that is paid or payable by the government of British Columbia to or for a person if the payment is in accordance with an award in a legal proceeding or with a settlement agreement in respect of a claim for injury, loss or damage caused by the Minister of Children and Family Development, that ministry, an employee of that ministry or a person retained under a contract to perform services for that ministry;

(yy.2) money that is paid or payable by the government of British Columbia to or for a person because the person was a resident of Woodlands School;

(zz) a disabled contributor's child's benefit paid or payable under the Canada Pension Plan;

(aaa) payments granted under an agreement referred to in section 94 of the Child, Family and Community Service Act;

(bbb) money that is paid or payable, in respect of a child, from property that comes into the control of, or is held by, the Public Guardian and Trustee;

(ccc) money that is paid or payable from a settlement in respect of Treaty No. 8 agricultural benefits;

(ddd) money that is paid or payable from a settlement under

(i) the Cadboro Bay Litigation Settlement Agreement, dated for reference November 1, 2017, between the Esquimalt Nation and Canada, or

(ii) the settlement agreement, dated for reference October 30, 2017, between the Songhees Nation and Canada;

(eee) money that is paid or payable under the Memorial Grant Program for First Responders established under the authority of the Department of Public Safety and Emergency Preparedness Act (Canada).

(1.1) Despite subsection (1), assets described in subsection (1) (x) (ii) (A) are not exempt under subsection (1) (i), (j), (k), (l) or (m).

(2) A family unit is not eligible for income assistance if any of the following apply:

(a) subject to paragraph (c), a sole applicant or sole recipient has no dependent children and has assets with a total value of more than \$5 000;

(b) subject to paragraph (c), an applicant or a recipient has one or more dependants and the family unit has assets with a total value of more than \$10 000;

(c) one applicant or recipient in the family unit receives accommodation and care in a private hospital or a special care facility, other than an alcohol or drug treatment centre, or is admitted to a hospital for extended care, and the family unit has assets with a total value of more than \$100 000;

(d) 2 applicants or recipients in the family unit receive accommodation and care in a private hospital or a special care

facility, other than an alcohol or drug treatment centre, or are admitted to a hospital for extended care, and the family unit has assets with a total value of more than \$200 000.

(2.1) Despite subsection (2), a family unit that includes an applicant or a recipient who has applied for and has not been denied, or who the minister is satisfied has a genuine intention to apply for, designation as a person with disabilities under section 2 of the Employment and Assistance for Persons with Disabilities Act may receive income assistance, subject to all other eligibility criteria, if the family unit has assets with a total value of no more than

(a) in the case of a family unit that includes one applicant or recipient who has applied for and has not been denied, or who the minister is satisfied has a genuine intention to apply for, designation as a person with disabilities, \$100 000, or

(b) in the case of a family unit that includes 2 applicants or recipients who have applied for and have not been denied, or who the minister is satisfied have a genuine intention to apply for, designation as a person with disabilities, \$200 000.

(2.2) and (2.3) Repealed. [B.C. Reg. 122/2019, App. 1, s. 4 (d).]

(3) The minister may authorize one or more of the following:

- (a) that for a family unit that includes a person who has persistent multiple barriers to employment or a person who has reached 65 years of age, the total cash surrender value of an uncashed life insurance policy of an applicant or recipient is not to be included as an asset for the purposes of subsection (2) for the period specified by the minister;
- (b) that saleable acreage and buildings owned by an applicant or recipient are to be treated as though they were the place of residence of the applicant's or recipient's family unit for the period specified by the minister.

(4) Repealed. [B.C. Reg. 197/2012, Sch.1, s. 9.]

### ***Position of the parties***

In the reconsideration decision, the ministry wrote that Section 11(2) of the EAR sets out that a family unit is not eligible for assistance if a sole applicant for assistance has no dependent children and has assets with a total value of more than \$5,000. The ministry wrote that the appellant has the sum of \$56,615 in accounts at two banks that the ministry considered “cash assets” as they consist of money standing to the appellant’s credit with a savings institution or a third party that must be paid to the appellant on demand. The ministry wrote that although the appellant has declared that the appellant’s father put his money into the appellant’s bank accounts and is using the funds for his expenses, the ministry is not able to determine that the assets are not the appellant’s as the accounts are solely in the appellant’s name. The ministry wrote that no exemptions apply to these assets under Section 11 of the EAR and, therefore, the appellant’s assets total \$56,615 at the time of the appellant’s application for income assistance on April 3, 2020. The ministry found that as the appellant’s assets exceed the \$5,000 limit for a sole applicant for income assistance with no dependents, the appellant is not eligible for income assistance at this time, pursuant to Section 11(2) of the EAR.

The appellant does not dispute that there are funds in account at two banks in the appellant's name that total \$56,615, but the appellant argues that these funds belong to the appellant's father and not to the appellant. In the Notice of Appeal the appellant wrote that when the appellant's father wanted to apply to get a visitor visa to come to Canada, he declared in the Proof of Means of Financial Support letter that he was going to bring \$35,000 USD with him to Canada to pay for all his own expenses and trips and in case he required medical care during his stay. In the appellant's additional letter filed on appeal, the appellant wrote that the appellant proved the money belongs to the appellant's father using the Proof of Means of Financial Support document from the appellant's father, who submitted it on September 16, 2019 to get his visitor visa. The appellant wrote that the banks do not open accounts for visitors like the appellant's father and he had no choice as it was not logical to leave the money at home or to carry it with him outside. The appellant wrote that the appellant's father put his money under the appellant's name in the banks as his trustee for safekeeping, according to the banks' suggestion. In another letter submitted on the appeal, the appellant added that as a visitor in Canada, the appellant's father needs his money, which is his life savings, to support himself as a person over 60 years of age during the COVID19 pandemic.

At the hearing, the appellant added that when the appellant spoke to the ministry on the telephone, the appellant was advised that the money could be in the appellant's name if the appellant could prove that the funds belonged to the appellant's father. The appellant provided a copy of the screen to show the Proof of Means document was created on September 16, 2019, which was sufficient to grant the appellant's father visitor status in Canada. The appellant's father stated at the hearing that when they went to the banks, there was no choice but to put his funds in the appellant's name, and he considers the appellant like a trustee. The appellant's father stated that whenever he wants money, he asks the appellant to withdraw the money for him and the appellant withdraws the funds.

### ***Panel findings***

According to the definitions in Section 1 of the EAR, "assets" included "cash assets," which means "money standing to the credit of the person or the dependant with a savings institution, or a third party that must pay it to the person or the dependant on demand." While the appellant argued that the funds in two bank accounts totalling \$56,615 do not belong to the appellant but, rather, to the appellant's father, since the appellant's father brought the funds to Canada and needs the money to support himself while visiting the appellant, the appellant also admitted that the appellant is free to withdraw the funds from the accounts with the savings institutions on the appellant's demand. The appellant's father may have deposited the funds into the appellant's accounts with the two banks, but the appellant acknowledged that the accounts are solely in the appellant's name and the appellant's father has no ability to withdraw the funds from the banks for himself, or to have the savings institutions pay the funds to him on demand.

Although the appellant argued that the appellant has agreed with the appellant's father to serve as a trustee of the funds for him for safekeeping, there was no evidence that the savings

institutions considered that the funds were being held in trust for the appellant's father. In other words, the verbal agreement between the appellant and the appellant's father about the use of the funds in two bank accounts does not restrict the requirement of the savings institutions to pay the funds to the appellant on demand. According to the definition in Section 1 of the EAR, the panel finds that the funds totalling \$56,615, that stand to the credit of the appellant with two savings institutions that must pay it to the appellant on demand, are cash assets of the appellant.

The appellant did not argue that any of the exemptions in Section 11 of the EAR applied to the appellant's assets and, upon review of Section 11, the panel finds that the ministry reasonably determined that none of the listed exemptions apply. The panel also finds that the ministry reasonably concluded that as the appellant's assets exceed the \$5,000 limit for a sole applicant for income assistance with no dependents, the appellant is not eligible for income assistance at this time, pursuant to Section 11(2) of the EAR.

### ***Conclusion***

The panel finds that the ministry's decision, which determined that the appellant is not eligible for income assistance pursuant to Section 11(2)(a) of the EAR as the appellant is a sole applicant with no dependent children and has assets with a total value of more than \$5,000, is a reasonable application of the applicable legislation in the circumstances of the appellant. The panel confirms the ministry decision and, therefore, the appellant is not successful in the appeal.

APPEAL NUMBER  
2020-00168

**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)  
2020-07-16

PRINT NAME  
Kevin Ash

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)  
2020-07-16

PRINT NAME  
Arshdeep Dhaliwal

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)  
2020-07-16