

APPEAL NUMBER
2020-00138

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated May 7, 2020 which found the appellant not eligible for disability assistance.

Specifically, the ministry found the appellant was not eligible for disability assistance as the appellant did not provide information and verification of the information requested by the ministry in accordance with Section 10 of the Employment and Assistance for Persons with Disabilities (EAPWD) Act and Section 28 of (EAPWD) Regulation.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Act- Section 10

Employment and Assistance for Persons with Disabilities Regulation- Section 28

PART E – SUMMARY OF FACTS

Summary of key dates:

- October 1, 2019- the appellant was advised to provide documents in order to determine eligibility for disability assistance. Documents requested were:
 - current address verification with shelter costs
 - printed confirmation of all bank accounts, sole or joint, with each financial institution the appellant holds an account and a 90 day statement from each account
- October 16, 2019- the appellant provided:
 - Bank profile for the appellant's partner showing a chequing account and savings account and a 90 day statement for the chequing account only
 - Shelter confirmation
- January 28, 2020- In a phone conversation, the appellant's partner reported that both the appellant and themselves were employed. It was noted by the Quality and Compliance Specialist (QCS) no employment income was reported by the appellant and that it was not clear if the appellant was employed. The QCS was unable to determine if the appellant held a bank account.
- January 28, 2020- A second request was sent to the appellant for:
 - A meeting with the QCS conducting the review
 - Proof of all income from 2017 to present
 - Record of employment for all employment from 2017 to present
 - Tax information such as T4s for 2017-2018
 - Any outstanding bank information including a 90-day statement for the appellant's partner's savings account
- January 31, 2020- ministry determined the appellant no longer needed confirmation of bank accounts from the appellant as it was determined the appellant did not have accounts. The QCS requested employment records for the appellant and the appellant's partner based on the statements of the appellant's partner that both were employed.
- February 19, 2020- voice mail left from QCS reminding the appellant documents were required
- February 21, 2020- the appellant was advised they were not eligible for disability assistance. The letter indicated the appellant had failed to provide the following documents:
 - Proof of income 2017 to present
 - Record of employment(s)
 - Tax information
- March 16, 2020- the appellant provided the following documents:
 - The appellant's partner's:
 - 2017 tax filing
 - T4 from employer
 - 2018 notice of assessment
 - Savings account statement from November 2019 to March 2020
 - The appellant's 2017 tax filing information
 - A letter requesting the ministry view the appellant's employer income statement

provided at the last review

- March 23, 2020- the QCS noted multiple incoming e-transfers on the appellant's partner's chequing account and regular deposits every two weeks of around \$720.
- March 24, 2020- QCS extended the file closure due to the pandemic and attempted to contact the appellant to discuss undeclared income found on the appellant's tax documents, however was unsuccessful
- March 30, 2020- the appellant stated all documents were provided
- April 6, 2020- The QCS contacted the employer of the appellant's partner and determined the appellant's partner was employed there until October 2018 and that the appellant had provided casual labour and was paid in cash or in lieu of rent with no tax slips. The appellant's estimated income was \$50-\$100 per month for a total of \$1000.00.
- April 15, 2020- The appellant once again provided the appellant's partner's:
 - Bank statement for the savings account
 - An Affordable Child Care Benefit statement showing income for providing childcare from October 2019 to March 2020. The QCS noted the following information was still required:
 - Proof of all income from 2017 to present
 - Detailed information regarding the non-government deposits to the appellant's partner's chequing account
 - Written confirmation of the appellant's cash income from the noted employer
- April 20, 2020- the appellant submitted a Request for Reconsideration.
- May 7, 2020- the ministry completed the review of the appellant's Request for Reconsideration.

Evidence before the ministry at the time of reconsideration:

Additional Information

- Request for Reconsideration application section 3, Reason for request for Reconsideration where the appellant stated:
 - Documents were handed in more than once and the ministry could not find them.
 - That the appellant had been yelled at.
 - That the appellant's partner's smaller amounts being deposited were borrowed funds being paid back and other deposits were Ministry of Children and Family Development (MCFD) subsidies for child care the appellant's partner was providing.
 - There is a pandemic going on and this is not the time to close a PWD file, especially when everything asked for has been done.
 - When speaking to a ministry worker the appellant was informed they could review up to ten years prior if they wanted to and that the worker refuses the appellant's calls and hangs up on the appellant.
- In the **Notice of Appeal** dated May 20, 2020 the appellant stated:
 - They disagree with this decision because they highly believe their disability account is being closed because of possible scoop settlement money.
 - The ministry has made mistakes when saying we didn't provide documents that we did.

- We were told the ministry has a large data base and they are not always able to find what has been given to them.
- **Bank profile** for the appellant's partner dated March 3, 2010 noting a chequing and savings account
- **Account Activity** for the appellant's partner's chequing account from September 3, 2019 to March 6, 2020.
- **Appellant Submission** received at the Employment and Assistance Appeal Tribunal office on August 25, 2020 included seven appendixes with the following information:
 - Appendix I
 - 2017 income tax information for the appellant including General Form, Schedule 1, BC Tax, BC Tax Credits and T5007-Statement of Benefits.
 - 2017 income tax information for the appellant's partner including General Form, Schedule 1, 5, and 8, BC Tax, BC Credits, T4 statement of Remuneration Paid.
 - Appendix II
 - Notice of tax assessments for the appellant's partner for the 2017 and 2018 tax year.
 - T-4 Statement of Remuneration paid 2018 (no name on the document)
 - Appendix III
 - Two letters dated September 13, 2019 from Child Care Service Center addressed to the appellant's partner explaining the benefit plan and claim forms as well as the direct deposit application.
 - A direct deposit form completed by the appellant's partner (sections 1-3 completed, section 4 Authorization not completed).
 - Appendix IV
 - Affordable Child Care Benefit Claim Form completed by the appellant's partner for October 2019, November 2019, December 2019, January 2020, February 2020, March 2020, May 2020.
 - Photo copy of authorization to claim form for the Child Care Benefit Claim.
 - Appendix V
 - Letter dated July 13, 2010 from a friend of the appellant's partner explaining the number of times the friend had driven the appellant and his partner to the office of the Ministry of Social Development to pass required information on to the ministry. The letter also notes that the appellant's partner discussed being told that the ministry had a large data base and information was difficult to locate.
 - Appendix VI
 - A copy of the Notice of Appeal dated May 20, 2020.
 - Appendix VII
 - Copies of the original documentation sent by the Employment and Assistance Appeal Tribunal sent May 26, 2020.
- At the hearing the appellant's representative stated:
 - The appellant had completed to the best of his ability requests made by the ministry.
 - The appellant had difficulty addressing the requests of the ministry due to the

Covid pandemic as he was not able to meet with ministry personnel and travel to ministry offices was difficult.

- The appellant suffers from mental issues which make it difficult for him to communicate effectively over the phone and in written format.
- The appellant's submission received at the Employment and Assistance Appeal Tribunal office on August 25, 2020 which included seven appendixes supplied the information required by the ministry from the appellant.
- In the future the appellant would like an advocate to communicate on his behalf with the ministry.
- When asked by the ministry representative where bank statements depicting e-transfers (non-government funds) had come from the appellant's partner stated funds were from: (Amounts of the e-transfers were in the amounts of \$40.00, \$20.00, \$25.00, and \$90.00.)
 - loan payback from friends,
 - items sold such as a coat and,
 - reimbursement for items purchased for the children being cared for.
- The appellant's partner felt they had supplied a list noting the non-government funds shown in the bank documents. This information was passed on using a government drop box but an envelope was not used and the information may have been lost.
- At the hearing the ministry representative stated:
 - The appellant should be aware that "Scoop" funds referred to on page 4 of the appeal package, Notice of Appeal, are exempt.
 - The only outstanding information required of the appellant was an explanation of the non-government funds noted in the appellant's partner's bank statements.
 - The information required by the appellant should be given to the ministry in a timely manner.
 - When asked if the ministry would accept a written explanation from the appellant where the non-government funds had come from, the ministry would accept the statement from the appellant and it may not be necessary to have statements supplied by the individuals who had made the deposits.

Admissibility of additional information

The panel finds that the additional information provided by the appellant in the submissions on appeal, including:

- Income Tax statements for 2017 of the appellant and the appellant's partner,
- Notice of Tax Assessment of the appellant's partner for 2017 and 2018,
- T4 statement of the appellant's partner dated 2018,
- Letters from Child Care Service Center,
- Affordable Child Care Benefit Claim forms,
- Letter noting transportation to government offices by appellant's friend,
- Photo copy receipts

and the additional information provided by the appellant during the hearing of the source of each deposit made to the appellant's partner's bank account are relevant to the decision under appeal because the information tends to substantiate part of the appellant's position of this request. The panel therefore admits this evidence under section 22(4) of the *Employment and Assistance Act*.

PART F – REASONS FOR PANEL DECISION

The issue in this appeal is whether the ministry was reasonable in determining that the appellant was not eligible for disability assistance as the appellant had not supplied all requested information and verification of the information requested by the QCS in accordance with Section 10 of the EAPWD Act and Section 28 of the EAPWD Regulation.

Appellant's Position

The appellant argued a reasonable effort has been made to supply all the information requested by the ministry.

Ministry's Position

The ministry determined at the time of reconsideration, the appellant had not supplied the following information and verification as requested by the QCS and therefore found the appellant was not eligible for disability assistance.

- Detailed verification for each non-government deposit to the appellant's partner's chequing account to determine the source of each deposit
- 2018 tax information for the appellant to determine any employment income or potential sources of income
- Written income verification for the appellant's employment to verify the dates and income
- Proof of all income from 2017 to present in order to determine the appellant's past and current eligibility for disability assistance
- Once the appeal process began, the appellant submitted new evidence in a Submission sent to the Employment and Assistance Appeal Tribunal office on August 25, 2020. The ministry determined the appellant had met all but one requirement, that being, a detailed verification for each non-government deposit to the appellant's partner's chequing account to determine the source of each deposit and therefore the appellant was still not eligible for disability assistance.

Panel Finding

Section 10(1)(e)(f) of the EAPWD Act states for the purposes of determining or auditing eligibility for disability assistance the minister may direct a recipient to supply the minister with information within the time and in the manner specified by the minister and seek verification of any information supplied to the minister. Further, Section 10 (4) of the EAPWD Act states if the recipient fails to comply with the direction under this section, the minister may declare the family unit ineligible for disability assistance, hardship assistance or a supplement.

Section 28(1) of the EAPWD Regulation states for the purposes of section 10(4)(b) [information and verification] of the Act, the period for which the minister may declare the family unit ineligible for assistance lasts until the recipient complies with the direction.

The appellant has supplied all but one of the requests for information for the purpose of determining eligibility for disability assistance, that being, a detailed verification for each non-

government deposit to the appellant's partner's chequing account to determine the source of each deposit. During the hearing, the appellant was able to give a verbal explanation for the non-government deposits made to the appellant's partner's chequing account. As the ministry representative stated that in order to satisfy the ministry's request the appellant would have to supply a written statement depicting the source of each non-government deposit, the panel finds it was reasonable for the ministry to accept the verbal testimony of the appellant as evidence this information request had been met. The panel finds the ministry was not reasonable in finding the appellant not eligible for disability assistance.

Conclusion

The panel finds that the ministry's reconsideration decision finding the appellant not eligible for disability assistance was not a reasonable application of the legislation in the circumstances of the appellant. The panel therefore rescinds the ministry's decision. The appellant's appeal is thus successful.

Applicable Legislation

Employment and Assistance for Persons with Disabilities Act

Information and verification

- 10** (1) For the purposes of
- (a) determining whether a person wanting to apply for disability assistance or hardship assistance is eligible to apply for it,
 - (b) determining or auditing eligibility for disability 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 disability 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
- (a) reduce the amount of disability assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period, or
 - (b) declare the family unit ineligible for disability assistance, hardship assistance or a supplement for the prescribed period.
- (4.1) The Lieutenant Governor in Council may prescribe circumstances in which subsection (4) (a) or (b) does not apply.

(5) If a dependent youth fails to comply with a direction under this section, the minister may reduce the amount of disability assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period.

Employment and Assistance for Persons with Disabilities Regulation

Consequences of failing to provide information or verification when directed

28 (0.1) For the purposes of section 10 (4) (a) [*information and verification*] of the Act,

(a) the amount by which the minister may reduce the disability assistance or hardship assistance of the recipient's family unit is \$25 for each calendar month, and

(b) the period for which the minister may reduce the disability assistance or hardship assistance of the recipient's family unit lasts until the recipient complies with the direction.

(1) For the purposes of section 10 (4) (b) [*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.

(1.1) Section 10 (4) (b) of the Act does not apply if the minister is satisfied that the family unit is homeless or at imminent risk of becoming homeless.

(2) For the purposes of section 10 (5) [*information and verification*] of the Act,

(a) the amount by which the minister may reduce the disability assistance or hardship assistance of the dependent youth's family unit is \$25 for each calendar month, and

(b) the period for which the minister may reduce the disability assistance or hardship assistance of the dependent youth's family unit lasts until the dependent youth complies with the direction.

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2020-00138

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)

2020/09/29

PRINT NAME

Carman Thompson

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/09/29

PRINT NAME

Angie Blake

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/09/29