

Appeal Number

2022-0024

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated February 2, 2022, which denied the appellant's request for a backdated shelter allowance. The ministry found because the appellant did not provide shelter information as required under section 10(1)(b) of the Employment and Assistance Act (EAA) in May 2021, she was not eligible for the shelter allowance, pursuant to section 32(1) of the Employment and Assistance Regulation (EAR), until the information was provided five months later, in October 2021.

Part D – Relevant Legislation

Employment and Assistance Act section 10(1)(b) and 10(4)
Employment and Assistance Regulation section 32(1)

(See Appendix for detailed legislation)

Part E – Summary of Facts**The information before the ministry at reconsideration included:**

- A Request for Reconsideration form (RFR) dated January 21, 2022 where the appellant noted the following:
 - On May 10, 2021 she moved to another community, but still had a residence in the local community from May 2021 to present.
 - Resided at one RV park (RV#1) from May to September however the power was shut off for no reason so moved to another RV park (RV#2) in October.
 - She has submitted all rental payments and indicated the dates of the payments were the 11th of each month.
 - She resides in the local community but travels to another community frequently as she has some property stored there.
 - She does not pay for rent when she goes to the other community.
 - She turned 65 in October and is no longer on income assistance.
- Copies of cancelled cheques in the amount of \$700.00, payable to RV#1, for the months of June, July and August 2021.
- A ministry shelter form that indicates a rental start date of October 1, 2021 at RV#2 at a cost of \$496.

Information received after reconsideration

On the Notice of Appeal form (NOA) dated February 9, 2022 the appellant wrote, “There was a big misunderstanding by the ministry and in error the ministry shut off my shelter support.” She also wrote, “My error it was not clear that I continue to reside in the same community most of the time and I travel to another community as I have many assets there and to date have not had to pay.”

At the hearing, the appellant explained she had to move from her residence in May 2021 because she was being harassed and the ministry paid to move her belongings to another community, where she was not required to pay rent. The appellant stated she understands why the ministry cut off the shelter portion at that time, and it was her error that she did not tell the ministry she planned to reside in her RV in her home community. When asked whether she informed the ministry of her address change on her monthly report, she responded that she had, but didn't recall what month that was. When asked whether she had submitted confirmation of the new shelter costs, she indicated she had attempted to submit them to the ministry via the electronic system and that whenever the ministry asked her to submit shelter confirmation she had done so.

The appellant explained that she resided at RV #1 from May to September 2021 but that the landlady was elderly and did not provide receipts. The appellant informed the panel that her July rent cheque had bounced but she replaced it before August. The appellant pointed out that the landlady did not deposit the July or August rent cheques until August 23, 2021. The appellant stated the landlady was confused and thought the appellant hadn't paid rent, so cut off the hydro to the appellant's RV. When this happened, the appellant stopped payment on her

September rent cheque and then moved to RV #2 effective October 1, 2021.

At the hearing, the ministry explained that section 10 of the EAA allows the ministry to ask recipients to provide information and to require verification of shelter costs, and if the information is not provided, assistance can be denied under section 32 of the EAR. The ministry explained the appellant provided confirmation that she had to move to another community in May 2021 and had no shelter costs, so the shelter allowance was discontinued. The ministry indicated they attempted to contact the appellant several times: in May 2021 they sent a message to the appellant via the electronic system, indicating that because she had moved and they required shelter confirmation; in July 2021 they left a message on her voicemail reminding the appellant that shelter receipts were required and on September 3rd they spoke with the appellant, again requesting shelter confirmation. The ministry indicated a shelter form was received on September 29, 2021; however it was not signed by the landlady. The ministry called the landlady on October 6, 2021, however, the landlady stated that there had been no rent paid in two months.

The ministry explained they can only issue a shelter allowance for the current month the confirmation is received, and for one month back. The ministry stated if a ministry error has been made, they can seek higher authority to make an “underpaid” payment, however, this is a policy practise and is not legislated. The ministry stated, in the appellant’s situation, there was no ministry error because they had asked the appellant several times to submit shelter confirmation and it was not provided, and as soon as the confirmation of the shelter costs for RV #2 was received in October, the October shelter allowance was paid to the appellant.

Admissibility of New Information

The panel admits the appellant’s NOA and the oral evidence given at the hearing under section 22(4) of the Employment and Assistance Act, which allows for the admission of evidence reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

Part F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's reconsideration decision to deny the appellant's request for backdated shelter allowance was reasonably supported by evidence or was a reasonable interpretation of the legislation. The ministry denied the request because the appellant had not provided verification as requested.

The appellant's position is that as she paid rent from May to September 2021, and provided the cancelled cheques for June, July and August to the ministry as her receipts, the ministry should provide her with the shelter allowance.

The ministry's position is they can only issue a shelter allowance for the month in which they receive confirmation of the cost. In the appellant's circumstance, the receipts were submitted in October 2021, so she was issued the shelter allowance for October.

Panel Decision

Section 10(1)(b) of the EAA allows the ministry to audit eligibility for income assistance, and section 10(4) of the EAA provides that if a recipient fails to comply with a direction under this section the minister may declare the family unit ineligible for income assistance for a prescribed period. Section 32(1) of the EAR provides that the minister may declare the family unit ineligible for assistance until the recipient complies with the direction.

The appellant indicated on the Request for Reconsideration form that the ministry did not pay her a shelter allowance for the months of May 2021 through to September 2021, however the record indicates the appellant received May assistance on April 18, 2021 and the shelter allowance was stopped after the ministry paid for moving expenses on May 17, 2021. The ministry issued the appellant a shelter allowance for October 2021, so this leaves June, July, August and September 2021 where no shelter allowance was paid.

The appellant provided copies of cancelled cheques for June, July and August, dated the 11th of each month, however during the hearing the appellant informed the panel that the July 11, 2021 cheque initially bounced and she provided another "by August" but did not know the exact date. The July and August cheques were deposited on August 23, 2021. At the hearing, the appellant informed the panel that she stopped payment on the September cheque and moved out of RV #1 and into RV #2. The shelter form for RV #2 indicates an effective date of October 1, 2021, and there are no receipts on file to confirm what, if any, shelter amount was paid by the appellant for September.

The appellant argues that she submitted her shelter documents whenever the ministry requested them but did not know what date she had submitted them through the electronic system. There is no indication that the appellant followed up with the ministry to find out why she hadn't received the shelter allowance after submitting the shelter documents.

The ministry records indicate that a shelter form for RV #1 was submitted on September 29, 2021. This form was not signed by the landlord. Rather, there was a notation in the signature area to "call her". The panel notes that when the ministry contacted the landlord of RV #1 they

were informed the appellant had not paid rent for two months and she had moved out. The appellant argues that the landlady was very elderly and confused. The July and August rent cheques were not deposited until August 23, however, the panel cannot comment as to the reason why the cheques were deposited late. The copies of the cancelled cheques for June, July and August 2021, as well as a shelter form for RV #2 indicating a move in date of October 1, 2021, were all submitted by the appellant on October 6, 2021.

When reviewing section 32(1) of the EAR, the panel notes that the period for which the minister may declare the family ineligible for assistance lasts until the recipient complies with the direction. The word “assistance” captures both the support and shelter allowances, however, the ministry’s policy is more generous, as it allows them to issue a support allowance while awaiting verification of shelter costs before issuing the shelter allowance. In the appellant’s circumstance, the shelter document was submitted and verified in October, so the panel considers it reasonable for the ministry to determine eligibility for the shelter allowance is for the month of October.

As to whether assistance can be backdated, the ministry indicated they do have a policy which allows them to issue for months outside of the current month, but only if there had been a ministry error. The ministry informed the appellant of the need for shelter verification and the panel found no evidence that the information was submitted prior to October 6, 2021.

Although the appellant argues that the documentation has since been supplied, section 32 of the EAR states, “the minister may declare the family unit ineligible for assistance ...until the...recipient complies with the direction”, which was on October 6, 2021. Therefore, the panel finds the ministry’s determination that the appellant was ineligible for backdated shelter allowance from June to September 2021, as per section 32 of the EAR, reasonable.

Conclusion

The panel finds the ministry’s reconsideration decision, which determined that the appellant was not eligible for backdated shelter allowance, as per section 10 of the EAA and section 32 of the EAR, was reasonably supported by the evidence. The appellant is not successful on this appeal.

APPENDIX LEGISLATION

Employment and Assistance Act

Information and verification

s10 (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

- (a) reduce the amount of income 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 income assistance, hardship assistance or a supplement for the prescribed period.

Employment and Assistance Regulation

Consequences of failing to provide information or verification when directed

s32

(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 income assistance or hardship assistance of the recipient's family unit is \$25 for each calendar month, and

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(b) the period for which the minister may reduce the income 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.

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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)

Section 24(2)(a) or Section 24(2)(b)

Part H – Signatures

Print Name

Janet Ward

Signature of Chair

Date (Year/Month/Day)

2022 March 2

Print Name

Jan Broocke

Signature of Member

Date (Year/Month/Day)

2022 March 2

Print Name

Kulwant Bal

Signature of Member

Date (Year/Month/Day)

2022 March 2