

Appeal Number 2022-0041

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Innovation and Poverty Reduction (the ministry) dated February 22, 2022 that denied the appellant income assistance because the value of her assets is higher than her allowable limit.

Part D – Relevant Legislation

Employment and Assistance Regulation (EAR) sections 1 and 11

Part E – Summary of Facts

On January 28, 2022 the appellant applied for income assistance as a sole applicant.

- She provided a Bank Profile and Consent that confirmed the following balances on January 27, 2022:
 - Account 1: \$7301.17
 - Account 2: \$362.25
 - Line of Credit: \$2418.31

On February 2, 2022 the ministry contacted the appellant through the online portal to ask if her bank account balances are still accurate. The appellant indicated that the amount is around \$7300.

On February 4, 2022 the ministry determined the appellant was not eligible for income assistance because the value of her bank account is more than the \$5000 allowable limit for a sole applicant.

On February 4, 2022 the appellant submitted her request of reconsideration: She wrote that she owes \$2418.31 on her line of credit and therefore her actual cash asset level is \$4889.86 which is below \$5000.

On February 22, 2022 the ministry completed its reconsideration decision: The ministry wrote: "Section 80 of the EA Regulation is directory in nature and therefore, the ministry delivered its decision immediately after a thorough review of your request for reconsideration."

In her Notice of Appeal dated February 25, 2022 the appellant wrote "I have over \$2400 owing in my bank account and have below \$5000. Currently it is \$6250 and with another month rent and the amount owing, it falls well below \$5000. It is already below \$5000."

Admissibility of New Information

The panel finds that the information provided by the appellant in her Notice of Appeal is reasonably required for a full and fair disclosure of all matters related to the decision under appeal because it is information provided by the appellant about her financial situation. The panel therefore admits this information as evidence 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 denied the appellant income assistance because the value of her assets is higher than her allowable limit is reasonably supported by the evidence or a reasonable application of the legislation.

The appellant argues that she is eligible for income assistance because she owes \$2418.31 on her line of credit and therefore her actual bank balance is below \$5000.

The ministry determined that while the appellant owes money on her line of credit, the combined balance of her bank accounts exceeds her allowable limit of \$5000. The values of these accounts are cash assets because they are money standing to the appellant's credit at a financial institution. There are no exemptions permitted for this type of assets. As her cash assets are more than the allowable \$5000 for a sole applicant, the appellant is not eligible for income assistance.

Panel Decision:

The panel finds that the ministry decision that denied the appellant income assistance because the value of her assets is higher than her allowable limit is reasonably supported by the evidence and is a reasonable application of the legislation in the circumstances of the appellant.

Section 1 of the EAR defines money standing to the credit of a person with a savings institution as cash assets.

Section 11(1) of the EAR lists the exemptions that may be applied to assets for the purpose of determining eligibility for income assistance. Money standing to the credit of a person with a savings institution is not among the listed exemptions.

Section 11(2) of the EAR sets out that a sole applicant is not eligible for income assistance if they have assets with a total value of more than \$5000.

The panel finds the ministry reasonably determined that the appellant's cash assets exceed \$5000 because her most recent bank profile and consent show that the combined value of her cash assets is \$7670.42 (\$7308.17 + \$362.25). This money is defined as a "cash assets" because it is money standing to the appellant's credit at a financial institution. There are no exemptions permitted for this type of assets.

The Panel sympathizes with the appellant as it appears that she misunderstood the definition of cash assets. Even though the appellant has rent payments and money owing on a line of credit, the total of \$7308.17 in her bank accounts is considered "cash assets" as it is money standing to her credit at a financial institution.

Conclusion

The panel finds that the Ministry's decision that the appellant is not eligible for income assistance because the value of her assets is higher than her allowable limit is reasonably supported by the

evidence and a reasonable application of the EAR in the circumstances of the appellant. Therefore, the ministry's decision is confirmed. The appellant is not successful in her appeal.

Employment and Assistance Regulation

Definitions

- 1 (1) In this regulation: ...
"cash assets" in relation to a person, means ...
(b) money standing to the credit of the person or the dependant with
(i) a savings institution, ...

Asset limits

- 11 (1) The following assets are exempt ...:
- (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) financial assistance payments provided under Part 6 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;
- (oo.1) money that is paid or payable to or for a person if the payment is in accordance with the settlement under the Final Settlement Agreement and Supplementary Agreement approved by the Federal Court June 22, 2018 in Court File No. T-370-17, *Todd Edward Ross et al. v. Her Majesty the Queen*;
- (oo.2) money that is paid or payable to or for a person if the payment is in accordance with the settlement under the Final Settlement Agreement approved by the Federal Court January 30, 2019 in Court File No. T-1068-14, *Raymond Michael Toth v. Her Majesty the Queen*;
- (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;
- (ww.1) a BC child opportunity 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);

(fff) money, or goods or services in kind, received or to be received by a participant in the Ministry of Social Development and Poverty Reduction's Work Experience Opportunities Grant program from a grant under the program;

(ggg) a rebate of all or part of a premium paid to the Insurance Corporation of British Columbia under the *Insurance (Vehicle) Act* and the plan operated under that Act;

(hhh) an amount that is paid or payable, as a single payment or series of payments, as follows:

- (i) the amount is paid or payable by a person who is or was a landlord, owner or manager, or a person who holds or held a similar position, in relation to leased, rented or licensed residential premises, whether or not the *Residential Tenancy Act* or the *Manufactured Home Park Tenancy Act* applies to that premises;
- (ii) the amount is paid or payable to a person who is or was a tenant, lessee, licensee or occupant, or a person who has or had a similar right or permission to use the premises for residential purposes;
- (iii) the amount is paid or payable as full or partial compensation for loss of the residential use of the premises, including for eviction, relocation, demolition, temporary displacement during repair, renovation or redevelopment, or as an inducement to cease or suspend residential use;
- (iv) the amount is paid or payable under an enactment, a policy or a contract, or voluntarily or at the discretion of the person referred to in subparagraph (i);

(iii) money that is exempt under section 8 of Schedule B;

(jjj) money that is paid or is payable to or for a person from a settlement under the Williams Treaties Settlement Agreement signed August 22, 2018;

(kkk)money that is paid or is payable to or for a person from a settlement under the Missanabie Cree First Nation Treaty Land Entitlement Settlement Agreement signed April 24, 2020;

(lll)money that is paid or is payable to or for a person from a settlement under the Peepeekisis Cree Nation File Hills Colony Specific Claim Settlement Agreement signed March 23, 2021;

(mmm)money that is paid or is payable to or for a person from a settlement under an agreement to settle claims relating to the transfer of the Seabird Island Indian Reserve in 1959 by the Government of Canada to the Seabird Island Band and the distribution of shared trust funds on a per capita basis...

(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; ...

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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) and Section 24(1)(b)
Section 24(2)(a) or Section 24(2)(b)

Part H – Signatures

Print Name

Inge Morrissey

Signature of Chair

Date (Year/Month/Day)

2022/04/05

Print Name

Angie Blake

Signature of Member

Date (Year/Month/Day)

2022/04/07

Print Name

Don Storch

Signature of Member

Date (Year

2022/04/07