

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated May 19, 2022 that determined the appellant was not eligible for a backdated shelter allowance for 2014 - 2016 as per *the Employment and Assistance for Persons with Disabilities Act*, sections 3, 5, and 10 and the Employment and Assistance for Persons with Disabilities Regulation sections 23 and 24.

Specifically, the ministry determined the appellant was not eligible for shelter allowance from January 2014 to June 2016 because he had not provided any proof of incurring shelter costs for this period.

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA), sections 3, 5, and 10

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) sections 23, 24 and Schedule A

See attached Schedule of Legislation.

Part E – Summary of Facts**Relevant Evidence Before the Minister at Reconsideration****Ministry Records show:**

- The appellant's current file opened August 2013. Effective April 2014, the appellant received PWD designation. He receives disability assistance as a single person.
- From December 2013 until June 2016 the appellant had no fixed address and received shelter allowance for a phone only.
- In July 2016, the appellant provided the ministry with an address, which included rent of \$375/month, and so he began receiving the full \$375 shelter allowance (July 2016 to December 2016). The appellant moved to a different address in May 2017.
- In September 2020, the ministry stopped the appellant's shelter allowance for the rent portion as it received information that the appellant had been evicted from the property.
- On April 21, 2022 the ministry completed a review of current and past shelter allowance eligibility. It determined the appellant had submitted sufficient documentation and was therefore eligible for a \$200/month shelter allowance for rent for the period of October 2020 to April 2022, in addition to the \$35 for a phone. The ministry issued \$3400 to cover the months of October 2020 to February 2022, and the extra \$200 for March and for April 2022, all for the backdated shelter allowance for this period of time.
- The ministry states this reconsideration decision only pertains to the decision to deny the appellant's request for a backdated shelter allowance for 2014 - 2016.
- The appellant requested an underpayment for 2014 -2016 for shelter as he stated he had costs that the ministry did not cover. Verification was requested but the appellant stated he could not provide receipts and that the ministry should be able to use common sense to determine that he had expenses over \$375.

Request for Reconsideration (May 6, 2022) - summary

The appellant states he was living at a 40 acre property but was evicted and his camper was moved across the road (addresses B and C).

When he lived on the 40 acre property, at times he slept in his tin shell, at times under the table in the kitchen of the house and for two years in his friend's fifth wheel camper, where he purchased propane from a place in town for heating, cooking and showers.

The tin shell has an old tent stove and plywood with linoleum, which is where he sleeps. The other five feet of the camper is filled with junk and garbage. The appellant states he needed heat, batteries or candles. The camper is in such condition in part due to post traumatic stress disorder (PTSD) and also lack of motivation to clean. Also, he states he has no money to repair or clean it. If there is no water, heater or electricity it's not rocket science to realize the substitutes have to come from somewhere.

The appellant also states his truck had thousands of pages of personal information, his entire paper and digital WCB file, medical papers, welfare files, and all his belongings. As well, the appellant states his water pump broke as he had lived in the camper for five years. The ministry withholding his PWD (\$300 and \$75 phone allowance) is the reason he could not fix his truck, which was his home.

Additional Information

Appellant

Notice of Appeal (June 14, 2022)

The appellant states that failure to provide receipts is unreasonable.

Submissions

YouTube Video (June 17, 2022) showing a discussion regarding what appears to be an attempt to tow a truck.

Freedom of Information and Protection of Privacy, Request to Access Records (August 20, 2011) requesting all records pertaining to the appellant's assistance file.

At the hearing, the appellant stated early in 2014 he was living at address B, but for most of 2014 and up to June 2016 he was living at another address (address A). He reiterated that it's only common sense that expenses would have to have been incurred. However, he has no receipts for his expenses from January 2014 to June 2016. The appellant also stated that he lived in his truck for five years and everything he owned was in his truck.

Ministry

The ministry did not raise any objections to the appellant's additional submissions.

At the hearing, the ministry relied on its record and added that the ministry does not make the law; It only follows the law.

The panel determined the additional information to be argument.

Part F – Reasons for Panel Decision

The issue on appeal is whether the ministry's reconsideration decision that determined the appellant was not eligible for a backdated shelter allowance for 2014 - 2016 as per the EAPWDA, sections 3, 5, and 10 and the EAPWDR sections 1, 23 and 24, was reasonably supported by the evidence or a reasonable application of the legislation in the circumstances of the appellant.

Specifically, did the ministry reasonably determine the appellant was not eligible for shelter allowance from January 2014 to June 2016 because he had not provided any proof of incurring shelter costs for this period.

As the reconsideration decision only pertains to the decision to deny the appellant's request for a backdated shelter allowance for 2014 – 2016, the panel will only address this time period.

Relevant sections of the legislation can be found in the Schedule of Legislation at the end of this decision.

Appellant Argument

The appellant argues that failure to provide receipts is unreasonable and that it's only common sense that expenses would have to have been incurred.

Ministry Argument

The ministry argues it was unable to establish eligibility without confirmation of expenses. For the period January 2014 to June 2016, the appellant received shelter allowance for a phone; However, as the appellant had no fixed address and no actual shelter costs on file during this time, the ministry is unable to establish that the appellant had any actual shelter costs.

Although there were notes found on file about a request for the \$375 shelter allowance in May 2014, July 2014, April 2015 and March 2016, the appellant had no fixed address and was told at each request that the ministry was unable to provide the \$375 shelter allowance without verification and confirmation of actual shelter costs.

The ministry argues the appellant did not provide any documentation of any actual shelter costs for the January 2014 – June 2016 period. At no point did the appellant provide any documents to support any actual shelter costs, nor any receipts from any expenses related to the vehicle. He had not provided any new receipts, bank statements, or any type of documentation that would demonstrate he had incurred actual shelter costs at that time.

The ministry argues that it has no ability to provide shelter allowance without confirmation of actual shelter costs.

Analysis

Sections 3 and 5, EAPWDA – eligibility for disability assistance

Section 3 states a family unit is eligible for disability assistance if each person in the family unit satisfies the initial and continuing conditions of eligibility established, and section 5 states the minister may provide disability assistance to or for a family unit that is eligible for it. Ministry records show effective April 2014, the appellant received the PWD designation and he receives disability assistance as a single person.

Section 10, EAPWDA – information and verification

Section 10 states for the purposes of determining or auditing eligibility for disability assistance, the minister may direct a person to supply the minister with information within the time and in the manner specified and if a recipient fails to comply with a direction under this section, the minister may declare the family unit ineligible for disability assistance for the prescribed period.

The ministry argues that it has no ability to provide shelter allowance without confirmation of actual shelter costs, and at the hearing the appellant stated he has no receipts for his shelter expenses from January 2014 to June 2016.

As the minister may declare the person ineligible for disability assistance for the prescribed period, (as per section 10 of the EAPWDA), and the appellant is unable to provide the ministry with verification of shelter costs, the panel finds the ministry decision to deny backdated shelter allowance for the period 2014 – 2016, reasonable.

Although the appellant argues that it is only common sense that shelter costs would have been incurred for this period, the ministry and the panel are bound by the legislation.

Sections 23, 24 and schedule A, EAPWDR – effective date of eligibility/amounts of disability rates and support allowance

Section 23 outlines the effective date for support allowance, section 24 outlines the formula for disability and Schedule A shows the amount of support allowance for one person to be \$375.

Conclusion

In conclusion, the panel finds the ministry's reconsideration decision, which determined that the appellant was not eligible for a backdated shelter allowance for 2014 - 2016 as per the EAPWDA, sections 3, 5, and 10 and the EAPWDR sections 1, 23 and 24, was a reasonable application of the legislation in the circumstances of the appellant.

The appellant is not successful on appeal.

Schedule of Legislation

Employment and Assistance for Persons with Disabilities Act

Eligibility of family unit

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

- (a) each person in the family unit on whose account the disability 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 disability assistance, hardship assistance or supplement under this Act.

Disability assistance and supplements

5 Subject to the regulations, the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it.

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,

...

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.

...

(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.

Employment and Assistance for Persons with Disabilities Regulation

Effective date of eligibility

23 (1) Except as provided in subsections (1.1), (3.11) and (3.2), the family unit of an applicant for designation as a person with disabilities or for both that designation and disability assistance

...

(b) for a shelter allowance under sections 4 and 5 of Schedule A on the first day of the calendar month that includes the disability assistance application date, but only for that portion of that month's shelter costs that remains unpaid on the date of that submission, and

...

Amount of disability assistance

24 Disability assistance may be provided to or for a family unit, for a calendar month, in an amount that is not more than

(a) the amount determined under Schedule A, minus

(b) the family unit's net income determined under Schedule B.

Disability Assistance Rates

(section 24 (a))

...

Monthly shelter allowance

4 (1)For the purposes of this section:

...

(2)The monthly shelter allowance for a family unit to which section 14.2 of the Act does not apply is the smaller of

(a)the family unit's actual shelter costs, and

(b)the maximum set out in the following table for the applicable family size:

Item	Column 1	Column 2
	Family Unit Size	Maximum Monthly Shelter
1	1 person	\$375

(2.1)The monthly shelter allowance for a family unit to which section 14.2 of the Act applies is the smaller of

(a)the family unit's actual shelter costs, and

(b)the maximum set out in the following table for the applicable family unit composition:

...

How actual shelter costs are calculated

5 (1)For the purpose of this section, utility costs for a family unit's place of residence include only the following costs:

(a)fuel for heating;

(b)fuel for cooking meals;

(c)water;

(d)hydro;

(e)garbage disposal provided by a company on a regular weekly or biweekly basis;

(f)rental of one basic residential single-line telephone.

(2)When calculating the actual monthly shelter costs of a family unit, only the following items are included:

(a)rent for the family unit's place of residence;

(b)mortgage payments on the family unit's place of residence, if owned by a person in the family unit;

(c)a house insurance premium for the family unit's place of residence if owned by a person in the family unit;

(d)property taxes for the family unit's place of residence if owned by a person in the family unit;

(e)utility costs;

(f)the actual cost of maintenance and repairs for the family unit's place of residence if owned by a person in the family unit and if these costs have received the minister's prior approval.

APPEAL NUMBER 2022-0129

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
Connie Simonsen

Signature of Chair

Date (Year/Month/Day)
2022/07/07

Print Name
Susanne Dahlin

Signature of Member

Date (Year/Month/Day)
2022/07/07

Print Name
Daniel Chow

Signature of Member

Date (Year/Month/Day)
2022/07/07