

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated August 23, 2022 that found the appellant ineligible for “backdated” shelter allowance for the months of January, February, March and April 2021 because the appellant did not provide the ministry with verification of her actual shelter costs.

The panel notes that the ministry found the appellant eligible for shelter allowance of \$570/month for the months of July, August, and September 2021 and approved the appellant’s request for a \$570 shelter allowance for these months.

Part D – Relevant Legislation

Employment and Assistance Act (EAA) sections 2, 4, and 10
Employment and Assistance Regulation (EAR) sections 26 and 28 and Schedule A

Part E – Summary of Facts

From the ministry file:

- The appellant's current assistance file opened in November 2017. The appellant has been in receipt of assistance as a single person with one dependent child.
- Effective February 2022 the appellant was approved for the PWD designation.
- On December 10, 2020 the appellant's \$570 shelter allowance was stopped, effective January 2021. The shelter allowance was stopped based on information received from the landlord that the appellant was required to move by December 13, 2020. The appellant later reported she was no longer moving and the ministry was unable to confirm her address and shelter costs for January 2021 ongoing. On December 14, 2020 the service request was closed as abandoned as documentation had not been submitted by the appellant to confirm her address and actual ongoing shelter costs.
- On May 7, 2021 the appellant contacted the ministry asking how to get shelter funds and was told to submit verification of shelter costs. A ministry worker sent her a message requesting she submit shelter verification.
- On May 19, 2021 the appellant advised the ministry that the house where she rents is being sold and she will be moving to an AirBnB.
- On May 26, 2021 the appellant submitted her monthly report declaring the house was sold, her file was updated, and her shelter expenses were stopped. The appellant had already received her June assistance including the shelter allowance.
- On June 1, 2021 she advised the ministry that she had made a mistake and will be moving in June.
- On October 26, 2021 the appellant contacted the ministry indicating she was still waiting on a decision in respect to a review of eligibility for the shelter allowance for December 2020 to September 2021 and was adamant that she had submitted all requested documents.
- A service request was set up this date to complete a review of past eligibility for the period in question. The ministry determined the appellant had received shelter allowance for the months of December 2020, May 2021, and June 2021.

In her request for reconsideration which was submitted on August 11, 2022 the appellant wrote that:

- She did not understand that she could update her file while it was under review.
- She has lost a lot of her ability to understand and do things on her own. The side-effects of her medications can, among others, result in impaired vision and memory loss.
- For the first three months she had a friend or family members help her with the required documentation; she has been trying to do it alone after that.
- Initially the ministry tried to confirm shelter costs with her landlord; however, the landlord did not answer the call which resulted in the appellant losing her shelter allowance which was not her fault.
- It is not the appellant's fault the landlord would not provide verification/information to the ministry (according to the appellant he was trying to avoid capital gains when his house sold)

- The owner of the house told the appellant that the owner's boyfriend did not have the right to rent it out; however, the person moving into the house (a family member) allowed the appellant to stay there with her son.
- She did submit verification of her shelter in May 2021 with the letter provided from her landlord.
- When the appellant updated the ministry in May 2021 that the house had been sold her shelter allowance was stopped; however, the appellant had misunderstood when to report the change as she were later told that she doesn't submit the documents until the move.
- She has always submitted her Residential Tenancy Agreement forms and does not understand why she should be penalized for the landlord refusing to answer the ministry's calls.

On May 14, 2021 the landlord wrote letter stating: "This letter is to confirm that [the appellant] rented property at [the address] from September 1, 2020 to May 31, 2021. The residence was sold by the owner, with a possession and closing date of June 1, 2021. The property was requested to be vacant upon possession by the new owners."

A printout from the Real Estate website states that the house which was the appellant's residence was "last sold on Jun 1, 2021".

In her Notice of Appeal dated September 13, 2022 the appellant stated information she had given before and added that following: The person who had been helping her with her account died and she did not have his assistance. Sometimes she finds things difficult to understand because she has been in a coma for 44 days. The conversation between her and her landlord on Kijiji is proof of how much rent she paid.

A copy of a conversation between the landlord and the appellant on Kijiji between August 3 to August 11, 2020 titled "4 bedroom executive suite (3/4 of a house \$2200 per month)" ends with the landlord offering the suite to the appellant.

In an extract from a letter dated April 15, 2021 to the appellant regarding "Tenancy Agreement with [the landlord]" the lawyers confirm that the landlord has provided her with notice to end tenancy on June 1, 2021.

A few minutes before the start of the hearing the panel received the following evidence:

- A submission from the appellant where she repeats argument previously made and writes: "The ad was up for 2200 but settled at 2100 any months if there was an underpayment was as I would pay the cost of anything that needed to be fixed and it would be taken off my rent."
- The appellant's bank statement showing the following information:

June 3, 2021	Interac e-transfer from landlord to appellant for \$ 1050.00
March 9, 2021	Interac e-transfer to landlord from appellant for \$ 1040.00
March 5, 2021	Interac e-transfer to landlord from appellant for \$ 1050.00
January 1, 2021	Interac e-transfer to landlord from appellant for \$ 1100.00
December 1, 2020	Interac e-transfer to landlord from appellant for \$ 180.00
- An undated interac e-transfer receipt for \$2100.00 sent to the landlord by the appellant's boss

At the hearing the appellant repeated information previously given and confirmed that she lived at her residence from January to April 2021 and paid \$2100 per month rent to her landlord. She paid her rent monthly. She was responsible for repairs, paid for them when they occurred and took the costs off the rent. She shared her residence with a roommate. Her portion of the rent was \$1100.00. Her roommate paid their share to the appellant, and she forwarded the combined rent to the landlord. The appellant explained that the rent payments came from different sources: She paid for January; her boss helped her

out and paid \$2100 for February; for March she paid the whole amount in 2 payments. Her parents helped with rent money in April and May. She has since paid the money back to her father. She moved out on June 1, 2021.

The ministry summarized the reconsideration decision and added that they would probably have decided differently had they had the information that was submitted on appeal. At reconsideration the ministry had no rent confirmation. The ministry also stated that it is not ministry practice to advise a client not to submit documents during an investigation.

Admissibility of New Information

The panel finds that the information provided by the appellant and the ministry on appeal and at the hearing is reasonably required for a full and fair disclosure of all matters related to the decision under appeal because this information relates to the confirmation of the appellant's rent payments and her request for shelter allowance. 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 that denied the appellant shelter allowance for the months of January to April 2021 is reasonably supported by the evidence or is a reasonable application of the legislation in the circumstances of the appellant.

Section 10 of the EAR sets out that for the purposes of determining or auditing eligibility for income assistance [which includes shelter allowance] the ministry may direct a person to supply them with information within the time and in the manner specified by the ministry, or supply verification of any information he or she supplied to the minister. If a client fails to comply with a direction under this section, the minister may declare them ineligible for income assistance.

Appellant's Position

The appellant argues she should be eligible for shelter allowance because she has submitted the requested verification of her actual rent amount, because the landlord was not forthcoming in providing rent receipts, and because she thought she was not supposed to provide new documents during a ministry review.

Ministry's Position

The ministry determined that the appellant is not eligible for a backdated shelter allowance for the months of January to April 2021 because the ministry was unable to verify her actual shelter costs for this period. The appellant was advised in December 2020 of the decision to discontinue her shelter allowance effective January 2021 and told that verification of actual shelter costs was required which was not received. The landlord is not the owner of the property, rent receipts were not provided to confirm actual shelter, the owner of the property did not give permission to rent out that address, and as per the appellant's report the owner would not provide any further information to confirm you were incurring actual shelter costs for that address.

Panel Decision:

The panel finds that the ministry decision to deny the appellant shelter allowance for the months of January to April 2021 because she did not provide verification of her actual shelter costs is not reasonably supported by the evidence and is not a reasonable application of the legislation in the circumstances of the appellant.

While the panel finds that at reconsideration the ministry reasonably determined that the appellant did not provide verification of her actual shelter costs, she did provide verification on appeal: The appellant's bank statement in conjunction with her explanations document a monthly shelter cost of \$2100.

The panel notes that the ministry should have applied the EAA and EAR in this appeal and not the *Employment and Assistance for Persons with Disabilities Act* (EAPWDA) and *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR). The appellant was approved for the PWD designation in February 2022, which is 1 year after the period that is at issue in this appeal. Consequently, EAPWD Act and Regulation do not apply in the appellant's circumstances.

Conclusion

The panel finds that the ministry's reconsideration decision that the appellant is not eligible for shelter assistance for January, February, March and April 2021 because the appellant did not provide verification of her actual shelter costs is not reasonably supported by the evidence and is also not a

reasonable application of the EAA and EAR in the circumstances of the appellant. The ministry's decision is rescinded and the appellant is successful in her appeal.

Employment and Assistance Act

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.

Income assistance and supplements

4 Subject to the regulations, the minister may provide income 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 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.

...

(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

Effective date of eligibility

26 (1) Except as provided in subsection (2), (2.01), (2.1), (3.01) or (3.1), a family unit is not eligible for income assistance or supplements in respect of a period that occurred before the date

the minister determines the family unit is eligible for the income assistance or supplements, as applicable.

(2) A family unit becomes eligible

- (a) for a support allowance under sections 2 and 3 of Schedule A on the income assistance application date,
- (b) for a shelter allowance under sections 4 and 5 of Schedule A on the first day of the calendar month that includes the income assistance application date, but only for that portion of that month's shelter costs that remains unpaid on the date of that submission, and
- (c) for income assistance under sections 6 to 8 of Schedule A on the income assistance application date.

Schedule A

Maximum amount of income assistance before deduction of net income

1 (1) Subject to this section and sections 3 and 6 to 10 of this Schedule, the amount of income assistance referred to in section 28 (a) [*amount of income assistance*] of this regulation is the sum of

- (a) the monthly support allowance under section 2 of this Schedule for a family unit matching the family unit of the applicant or recipient, plus
- (b) the shelter allowance calculated under sections 4 and 5 of this Schedule.

Monthly shelter allowance

4 (1) For the purposes of this section:

"family unit" includes a child who is not a dependent child and who relies on the parent for the necessities of life and resides in the parent's place of residence for not less than 40% of each month;

"warrant" has the meaning of a warrant in section 15.2 [*consequences in relation to outstanding arrest warrants*] of the Act.

(2) The monthly shelter allowance for a family unit other than a family unit described in section 15.2 (1) of the Act is the greater of

- (a) the minimum set out in the following table for the family unit, and
- (b) the lesser of
 - (i) the family unit's actual shelter costs, and
 - (ii) the maximum set out in the following table for the family unit.

Item	Column 1 Family Unit Size	Column 2 Minimum	Column 3 Maximum
2	2 persons	\$150	\$570

APPEAL NUMBER 2022-0208

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
Inge Morrissey

Signature of Chair

Date (Year/Month/Day)
2022/09/30

Print Name
Richard Franklin

Signature of Member

Date (Year/Month/Day)
2022/09/30

Print Name
Joseph Rodgers

Signature of Member

Date (Year/Month/Day)
2022/09/30