

Part C – Decision Under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Poverty Reduction (“Ministry”) dated April 6, 2023, in which the Ministry determined that the Appellant’s family unit was not eligible for income assistance for the month of April 2023 because the net income of the Appellant’s spouse in February 2023 was more than the amount of income assistance for their family unit.

Part D – Relevant Legislation

Employment and Assistance Act (“Act”), sections 1 (definition of “applicant”, “income assistance”, “recipient” and “spouse”), 1.1, 10 and 22(4)

Employment and Assistance Regulation (“Regulation”) sections 1(1) (definition of “Act”, “earned income” and “sole”), 10 and 28, and Schedule A, sections 1(1), 2 and 4

Full text of the Legislation is provided in the Schedule of Legislation at the end of the Reasons.

Part E – Summary of Facts

The appeal was scheduled to take place by videoconference on May 1, 2023, and was adjourned at the hearing at the Appellant's request, due to illness. The hearing resumed by videoconference on May 25, 2023.

Evidence Before the Ministry at Reconsideration:

The Appellant was a sole recipient of income assistance, receiving \$935 per month. On February 10, 2023, another person, "P", was added to the Appellant's assistance file as spouse. The income assistance rate for a couple is \$1,525 per month, which the Appellant received for March 2023.

The Appellant submitted a monthly report dated February 16, 2023, signed by the Appellant as Applicant, and P as Spouse. The monthly report indicated employment information for the Appellant and P and stated that P had net employment income of \$1,500 per month.

On March 20, 2023, the Appellant submitted an amended monthly report, stating that P earned \$2,469.89 in February 2023. The Appellant provided P's paystubs and bank statements from a joint account in the name of P and another person, confirming that P earned \$1,657.44 from Company A and \$812.45 from Company B in February 2023.

The Ministry determined that \$500 of P's earnings in February was exempt income, and the remaining \$1,969.84 was the family unit's net income under Schedule B of the Regulation. As the net income of \$1,969.84 was more than the income assistance rate of \$1,525, the Ministry determined that the Appellant was not eligible for income assistance for April 2023.

Additional Evidence:

In the Request for Reconsideration, the Appellant stated:

"Disagree because we are not common-law, we live (sic) together but no longer live together. Accountant made mistake to put common-law, I am single!"

At the hearing, the Appellant stated:

- He is dyslexic and gets paperwork mixed up.
- He had a call from a Ministry worker who was reviewing the Appellant's file, and asked the Appellant for his tax forms, which the Appellant obtained from his accountant and gave to the Ministry.

- The Ministry worker asked the Appellant who else was living at his address and how much rent he paid; the Appellant said that P lived there, because he has lived with P for four years.
- He denies that he told the Ministry worker that P was his partner.
- P is not his girlfriend, the Appellant is gay, and he just lives with P in a two-bedroom apartment.
- He does not know how it came to be recorded that P was his spouse, but the Ministry worker told him that P had to be added to the Appellant's file.

In answer to questions from the Panel, the Appellant said:

- He and P thought it was strange that P was signing forms as spouse.
- When he received the increased income assistance payment of \$1,525 for March 2023, he thought that the Ministry had just increased income assistance benefits, he did not know it was the rate for a couple.

Admissibility of Additional Evidence:

The Ministry did not object to the admissibility of Appellant's additional oral evidence at the hearing. The Panel finds that the additional evidence provides further information about P's status and the Appellant's communications with the Ministry. The Panel finds that the additional evidence is reasonably necessary to determine the issues in the appeal, and therefore the evidence is admissible under section 22(4) of the Act.

Part F – Reasons for Panel Decision

The issue on appeal is whether the Ministry was reasonable in its determination that the Appellant was not eligible for income assistance for April 2023 because the net income of the family unit in February 2023 was more than the monthly income assistance rate.

Appellant's Position:

The Appellant says that P's income should not have been considered in determining his eligibility for income assistance. The Appellant says that he lives in a two-bedroom apartment with P, but she was not his spouse. He says that P was added to his file as spouse at the Ministry's insistence, but it was a mistake. He says that, when he and P signed the monthly report and provided P's paystubs and bank statements, they were doing what the Ministry told them to do, but they thought it was strange that P was signing the monthly report as spouse. He says that he should have been eligible for income assistance in April as a sole recipient.

Ministry's Position:

The Ministry says that P was added to the Appellant's income assistance file on February 10, 2023, and as a result, the Appellant's income assistance rate increased to \$1,525. The Ministry maintains that it has calculated the Appellant's entitlement to income assistance according to the Regulation, based on the monthly report as amended on March 20, 2023. As the net income of the family unit in February exceeded the income assistance rate for a couple, the Appellant was not eligible to receive income assistance for April 2023.

Panel Decision:

The Panel finds that the Ministry was reasonable in determining that the Appellant was not eligible to receive income assistance for April 2023.

The only issue is whether the Ministry was reasonable in considering P's income when determining the Appellant's eligibility for income assistance. The Appellant does not dispute the Ministry's calculation of P's net income, but says that P was his roommate, not his spouse, and her income should not affect his eligibility.

P was added to the Appellant's file as spouse on February 10, 2023, apparently after a file review by the Ministry, when the Appellant gave the Ministry his tax documents. In the Request for Reconsideration the Appellant stated, "Accountant made a mistake to put common-law."

The monthly report dated February 16, 2023 was completed and signed by the Appellant and P. P provided information and signed the form in spaces clearly marked for “spouse.”

The next month, the Appellant amended and signed a copy of the February 16, 2023 monthly report to show that P’s February income was \$2,469.89. He provided copies of P’s paystubs and bank statements. The Appellant says that they signed the forms and provided the documents without understanding why they were doing that, although the Appellant admits that the Ministry worker told him that P had to be added to his file.

The Panel finds that it is reasonable for the Ministry to rely on the Appellant’s and P’s representations that P was the Appellant’s spouse. Under section 1.1 of the Act, two persons are spouses of each other for the purposes of the Act if they declare to the Ministry that they are in a marriage-like relationship. The Appellant and P declared to the Ministry in the monthly report that they were spouses, and repeated that representation in the amended report in March. Therefore, the Panel finds that the Ministry reasonably determined that the Appellant and P were spouses for the purposes of the Act. The Panel finds that the Ministry was reasonable in deducting P’s February net income, as declared by the Appellant, in determining the Appellant’s eligibility for April income assistance.

Conclusion:

The Panel finds that the Ministry’s determination that the Appellant’s family unit was not eligible for income assistance in April 2023 because the family unit’s net income in February was more than the income assistance rate, was a reasonable application of the legislation in the Appellant’s circumstances. The Panel confirms the reconsideration decision. The Appellant is not successful in the appeal.

Schedule of Legislation

Employment and Assistance Act

Interpretation

s. 1 (1) In this Act:

"applicant" means the person in a family unit who applies under this Act for income assistance, hardship assistance or a supplement on behalf of the family unit, and includes

- (a) the person's spouse, if the spouse is a dependant, and
- (b) the person's adult dependants;

"income assistance" means an amount for shelter and support provided under section 4 [*income assistance and supplements*];

"recipient" means the person in a family unit to or for whom income assistance, hardship assistance or a supplement is provided under this Act for the use or benefit of someone in the family unit, and includes

- (a) the person's spouse, if the spouse is a dependant, and
- (b) the person's adult dependants;

"spouse" has the meaning in section 1.1;

Meaning of "spouse"

s. 1.1 (1) Two persons are spouses of each other for the purposes of this Act if

- (a) they are married to each other,
- (b) they declare to the minister that they are in a marriage-like relationship, or
- (c) they have resided together for at least the previous 12 consecutive months and the minister is satisfied that the relationship demonstrates
 - (i) financial dependence or interdependence, and
 - (ii) social and familial interdependence

consistent with a marriage-like relationship.

(2) The Lieutenant Governor in Council may prescribe circumstances in which two persons are not spouses of each other for the purposes of this Act.

s. 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.

(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.

(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 income assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period.

Panels of the tribunal to conduct appeals

s. 22 (4) A panel may consider evidence that is not part of the record as the panel considers is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

Employment and Assistance Regulations

Definitions

s. 1 (1) In this regulation:

"Act" means the Employment and Assistance Act;

"earned income" means

- (a) any money or value received in exchange for work or the provision of a service,
- (b) Repealed. [B.C. Reg. 197/2012, Sch. 1, s. 1 (a).]
- (c) pension plan contributions that are refunded because of insufficient contributions to create a pension,
- (d) money or value received from providing room and board at a person's place of residence, or
- (e) money or value received from renting rooms that are common to and part of a person's place of residence;

"sole", in relation to an applicant or a recipient, means the applicant's or recipient's family unit includes no other applicant, recipient or adult dependant;

Limits on income

s. 10 (1) For the purposes of the Act and this regulation, "income", in relation to a family unit, includes an amount garnished, attached, seized, deducted or set off from the income of an applicant, a recipient or a dependant.

(2) A family unit is not eligible for income assistance if the net income of the family unit determined under Schedule B equals or exceeds the amount of income assistance determined under Schedule A for a family unit matching that family unit.

Amount of income assistance

s. 28 Income 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.

Schedule A

Income Assistance Rates

(section 28 (a))

Maximum amount of income assistance before deduction of net income

s. 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 support allowance

s. 2 (1) A monthly support allowance for the purpose of section 1 (a) is the sum of

(a) the amount set out in Column 3 of the following table for a family unit described in Column 1 of an applicant or a recipient described in Column 2, plus

(b) the amount calculated in accordance with subsections (2) to (4) for each dependent child in the family unit.

| Item | Column 1 Family unit composition | Column 2 Age or status of applicant or recipient | Column 3 Amount of Support |
|------|---|--|-------------------------------|
| 1 | Sole applicant/recipient and no dependent children | Applicant/recipient is under 65 years of age | \$560.00 |
| 7 | Two applicants/recipients and no dependent children | Both applicants/recipients are under 65 years of age | \$955.00 |

Monthly shelter allowance

s. 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 |
|------|------------------------------|---------------------|---------------------|
| 1 | 1 person | \$75 | \$375 |
| 2 | 2 persons | \$150 | \$570 |

APPEAL NUMBER 2023-0099

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
Susan Ferguson

Signature of Chair

Date (Year/Month/Day)
2023/05/30

Print Name
Kulwant Bal

Signature of Member

Date (Year/Month/Day)
2023/05/30

Print Name
Mimi Chang

Signature of Member

Date (Year/Month/Day)
2023/05/30