

### **Part C – Decision Under Appeal**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (“the Ministry”) Reconsideration Decision of January 30, 2025, which confirmed the Ministry’s determination that the Appellant is no longer eligible for income assistance as she failed to provide requested documents under Section 10(4)(b) of the *Employment and Assistance Act*.

As she was under imminent threat of eviction, however, the Appellant was eligible for income assistance in January with a \$25 sanction under Section 32(1.1) of the Regulation.

### **Part D – Relevant Legislation**

*Employment and Assistance Act* (“the Act”), Section 10

Employment and Assistance Regulation (“the Regulation”) Section 32.

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

**Part E – Summary of Facts**

A teleconference hearing was held on February 25, 2025. There was a brief adjournment called by the Panel to clarify the key issues in the Appeal, after which the hearing resumed.

Information before the Ministry at Reconsideration

- The Appellant had an open income assistance file as the sole member of the family unit.
- On March 25, 2024 the Prevention and Loss Management Services unit of the Ministry commenced a review of the Appellant's file.
- On August 20, 2024, the Ministry received information that the Appellant has a spouse.
- On September 13, 2024, the Appellant submitted a written note declaring that she and her spouse were married in 2019, separated in March 2023 and resumed their relationship in March or April 2024. The spouse earned between \$3,000 and \$3,500 per month. On September 17, 2024 the Ministry added the spouse to the Appellant's file.
- On September 18, the Ministry directed the Appellant to submit the following documents for herself and her spouse by October 10, 2024:
  - Business Income Statements from September 2019 to current;
  - Records of Employment ("ROE") for the Appellant and spouse from 2019 to current;
  - Pay records from 2019 to current (such as paystubs or bank statements showing all business and employment income);
  - Notice of Assessment (Canada Revenue Agency ("CRA")) tax documents from 2019 to current;
  - Bank statements for the last 90 days from all bank accounts (spouse only).
  - Written answers to the following questions:
    - What is your self-employment business name, and is your business registered?
    - How are/were you receiving your business income (cash, e-transfer, etc.)?
    - Do you have a GST and/or PST number?
    - What was the date when you last worked in your business?
- On October 11, 2024 the Ministry called the Appellant who provided a number of reasons why she would not be able to provide the requested documents and information. The Ministry discontinued cheque production until the Appellant submitted the requested documents.

- On October 10 and 11, 2024 the Appellant provided the following explanations for not providing the missing documents:
  - Her spouse did not do his 2024 income taxes and could not afford to pay for it.
  - She cannot remember what her business income is. She cannot identify which deposits are business income.
  - Her spouse refuses to submit his financial records.
- As of November 28, 2024 the Appellant had submitted:
  - Appellant's Notice of Assessments for 2019, 2020, 2021, 2022 and 2023.
  - Spouse's Notice of Assessment for 2019, 2021 and 2022.
  - Bank Statement from chequing account (last three digits 411) showing transactions from August 19 to September 18.
  - A written statement from the Appellant and her spouse with the following:
    - The name of her self-employment business. It is registered.
    - The name of her spouse's self-employment business. It is not registered.
    - Both received business income in cash. Neither business has GST or PST number.
    - Her last day of work at her self-employment business was April 2022.
    - Her spouse's last day of work at his self employment business was September 2024.
  - A written statement from the Appellant and her spouse explaining she does not have Records of Employment for her self-employment. As the majority of sales payments were in cash, it is not possible to tell which deposits were from work and which are not.
  - A statement declaring that any information requested that has not been handed in by November 28, 2024 cannot be accessed by the Appellant and therefore cannot be provided.
- As of November 29, 2024 the Ministry noted the following documents remained outstanding:
  - The spouse's Notice of Assessment for 2020 and 2023.
  - Business income tax statements from 2019 to current for the Appellant and her spouse.
  - Pay records from 2019 to current showing business income and employment income for the Appellant and her spouse.
  - 90-day bank statements from all bank accounts belonging to your spouse.
- During a December 10, 2024 phone call with the Ministry, the Appellant asserted she cannot provide the outstanding documents. She does not know which deposits to her bank account were for business income, because some income was received

in cash and some through e transfer. The Appellant did not respond to the question about how she reported her business income to the CRA.

- On December 16, 2024, the Appellant submitted a 10-Day Notice to End Tenancy form indicating she is facing eviction.
- On December 17, 2024 the Ministry advised the Appellant she was no longer eligible for income assistance as she had not provided information as directed by the Ministry and her file would be closed on January 22, 2025. The letter noted the Ministry had requested information required to review her file on March 25, 2024, May 14, 2024, September 18, 2024, October 11, 2024 and November 22, 2024. In each of the letters, the Appellant was advised that failure to provide the information could result in her assistance being discontinued or reduced.
- On January 6, 2025, the Appellant submitted the following documents:
  - A bank profile showing that her spouse has two open accounts including a chequing account (last three digits 411) and a savings account (last three digits 703).
  - A statement for her spouse's chequing account (last three digits 411) showing the transaction history from October 1 to 25, 2024 and from November 29 to December 31, 2024.
  - Partial Statement of Business and Professional Activities (T2125E) forms from the CRA for both her and her spouse, for the 2020, 2021, and 2022 fiscal years. Only pages 1 and 2 (of 4) of these forms are provided.
- As of January 8, 2025, the following documents were still outstanding:
  - The Appellant and her spouse's *complete* Statement of Business and Professional Activities forms for all years from 2019 to current, including missing pages from her statements for the years 2020 to 2022 showing her *net* income for these years.
  - Pay records from 2019 to current showing business income for her and her spouse.
  - 90-day bank statements from all bank accounts belonging to her spouse, including the spouse's savings account (last three digits 703).

#### Request for Reconsideration (January 16, 2025)

The Appellant and her spouse provided the following reasons for requesting reconsideration:

- She is at risk of becoming homeless, her spouse is not able to attend a drug and alcohol treatment centre and she will not be able to apply for Person with Disabilities Designation.

- She submitted bank statements for herself and numerous documents dating back to 2019.
- At the outset she said she would not be able to provide the information requested regarding which transfers were deposits and which were e-transfers from employment.
- She has a concussion from a motor vehicle accident, so she is not able to identify which transactions are from employment and which are not.
- There are no funds in any of her accounts and she is unable to borrow money from family or friends.
- The account used for depositing money was closed as it was overdrawn and not being used. Because the account is closed, there are fees associated with getting records and she has no money to pay for this.
- Last month she received a notice of late payment and she is close to losing the home she rents and she had been arranging for her children to come home.

#### Notice of Appeal (February 10, 2025)

In explaining her reasons for appeal, the Appellant said, "I disagree with the Ministry's decision."

#### Hearing (February 25, 2025)

At the hearing, the Appellant provided the following information:

- She did not receive income assistance, less the \$25.00 sanction, for January (despite being advised that she would receive it in her Reconsideration Decision).
- About three weeks ago she left her spouse because of domestic violence.
- She no longer has a place to live due to not paying her rent and leaving her husband. She is currently staying with a friend.
- When asked the Appellant said:
  - No one from the Ministry offered her help with getting the outstanding bank statements.
  - She has a 2018 vehicle as set out in the partial ICBC statement which was purchased from the proceeds of an ICBC settlement in the amount of approximately \$67,000, received in January 2024. She denied the existence of a 2019 vehicle that is listed by her spouse's bank as an asset.
  - Regarding the November 20, 2024 hand written notes that she provided to the Ministry stating, "We looked thru statements and due to the majority of sales payments were cash, we could not tell which was from work money and

which was not.” She could not identify which statements she meant and noted she has memory issues due to her car accident.

At the hearing the Ministry representative reviewed the main issues set out in the Reconsideration Decision and provided the following information and clarification:

- The Ministry discontinued cheque production for the Appellant as of October 2024 due to failure to provide documents requested under Section 10 of the *Act*. No income assistance was provided for November and December.
- It is the Ministry’s practice when seeking documents to set a deadline. Over the course of many months, the Appellant submitted many but not all of the documents the Ministry had requested.
- As part of the Reconsideration Decision, the Appellant was to receive income assistance for January 2025 as she was under threat of eviction, however, a \$25.00 sanction was to be applied to her income assistance.
- The Appellant’s file shows a number of service requests, including some that were initiated after the Reconsideration Decision was issued on January 30, 2025. She is part of a streamlined process. It is possible for her to collect income assistance for the current month and going forward, so long as she meets the legislated criteria.
- The case management system does not yet indicate that the Appellant is no longer with her husband, despite the Appellant’s evidence that she requested her file be updated about this three weeks ago.
- There are different teams within the Ministry that are responsible for different aspects of the Appellant’s file. The team that was undertaking the file review is different from the team that considered the Request for Reconsideration.
- When looking for bank statements, the Ministry generally finds it is most efficient if the client seeks them from the bank directly. Banks have a legal obligation to provide statements.
- What had originally been a joint account was now solely the former spouse’s account. In the case of the Appellant’s spouse, he would have to give consent to the Ministry to seek bank statements on his behalf.

## Admissibility

The Panel determined the additional evidence from the Appellant and the Ministry Representative that was provided at the hearing is reasonably required for a full and fair disclosure of all matters related to the decision under appeal. It is admissible as evidence under Section 22(4) of the *Employment and Assistance Act*.

**Part F – Reasons for Panel Decision**

The decision under appeal is the Ministry's Reconsideration Decision that found the Appellant is no longer eligible for income assistance because she failed to provide documents that were requested under Section 10(4)(b) of the *Employment and Assistance Act*. Despite being no longer eligible for income assistance, she was found to be eligible for January with a \$25 sanction under Section 32(1.1) of the Regulation

**Applicable Legislation**

Under Section 10 of the *Act*, the Ministry may direct an applicant or recipient to supply verification of information received by the Ministry if that information relates to the eligibility of the family unit for income assistance, hardship assistance or a supplement. If an applicant or recipient fails to comply with this direction, the Ministry may either reduce the amount of income assistance provided (as per subsection (4)(a)) or declare the family unit ineligible for income assistance (as per subsection (4)(b)) for the prescribed period.

Under Section 32(1) of the Regulation the period for which the Ministry may declare the family unit ineligible for assistance lasts until the recipient complies with the direction. However, Section 32(1.1) of the Regulation says that the period of ineligibility does not apply if the Ministry is satisfied that the family unit is homeless or at risk of becoming homeless. Section 32(0.1) of the Regulation states that the amount by which the Ministry may reduce the family unit's income assistance is \$25.00 each calendar month.

**Panel Reasons**

On September 18, 2024 the Ministry directed the Appellant and her spouse to provide information necessary to verify eligibility for income assistance, with respect to self employment income received between 2019 and the present.

The record shows that over the months between October 2024 and January 2025, the Appellants provided many of the documents requested by the Ministry. In the documents available to the Panel, the Ministry offered no reason to explain what bearing information from as far back as 2019 had on the Appellants' current entitlement. Nonetheless, the Ministry does have authority under section 10 of the *Act* to require those receiving income assistance to supply the minister with information on the timelines set by the minister and if they fail to provide the requested information to declare the family unit ineligible for income assistance.

As of January 8, 2025, the Appellant had not provided three types of documents. Amongst them was the complete set of Statement of Business and Professional Activities forms for the Appellant and her spouse, for all years from 2019 to current, including missing pages from the statements for the years 2020 to 2022 that show *net* income for these years. As of January 6, 2025, the Appellant had submitted portions of her and her spouse's Statement of Business and Professional Activities forms from the CRA for the years 2020, 2021 and 2022 fiscal years. The Ministry submitted that the Appellant reported earned business income and filed taxes to the CRA as confirmed by her Notice of Assessment documents. The Ministry also noted that the Appellant was under obligation to retain business financial records for at least seven years. Some of the T2125E Statement of Business and Professional Activities forms were submitted, and the Appellant and her spouse had the option of requesting past years of statements from the CRA. The Appellant explained that she is unable to provide other requested documents. She lost her filing box which contained her business information.

The Panel finds the Ministry was reasonable in determining it would have been possible for the Appellant to secure these records through making a request to the CRA. As there were multiple requests over several months for the Appellant to produce these documents and they were only produced in part, the Ministry was reasonable in finding the Appellant did not produce these requested documents as required by Section 10 of the *Act*.

The second set of documents requested by the Ministry was the 90-day bank statements from all bank accounts belonging to the Appellant's spouse, including the savings account. The Ministry noted that as the spouse's bank account is open, he would have the option to secure statements for this account, and that the Appellant declined offers of assistance by the Ministry to secure the requested statements. At the hearing, the Appellant asserted she had not been offered assistance by the Ministry to obtain the requested records from the bank. The account she and her spouse used for depositing money was closed because it was overdrawn. If she requested bank statements going back to 2019 there would be fees which she cannot pay. Additionally, her spouse refused to provide bank statements, and she has now separated from him due to domestic abuse so getting him to provide statements is no longer possible. As the bank records requested were for the current 90 days, and banks must provide records to their clients, the Panel finds it was within the spouse's ability to secure the requested records and provide them to the Ministry. The Panel notes that both the Appellant and her spouse's names are set out below the Reasons for Reconsideration. The Ministry is therefore reasonable in finding they failed to provide this component of the requested records.

The final set of missing documents was the pay records from 2019 to current showing business income for the Appellant and her spouse. The Ministry found that because the Appellant reported earned business income and filed taxes to the CRA for these years (as confirmed by her Notice of Assessment documents), she would have had to retain her business financial records detailing her earnings for at least a period of 7 years. The Appellant, however, submits that she lost her filing box which contained her business information. She said at the outset that she would not be able to provide information about which deposits and e-transfers came from employment. Also, she cannot identify which transactions are income because she was in a motor vehicle accident which left her with a concussion. She is unable to remember details about her business income that would assist her in identifying what was and wasn't employment income. The Panel notes that the Appellant has been consistent in saying her memory does not permit her to identify which deposits are which. Absent better record keeping on the part of the Appellant it seems as if these records do not exist and it is not within the Appellant's capacity to recreate them. The Panel finds it difficult to reconcile the Ministry's authority to require documents and the fact that the Appellant has not been able to produce them. It seems that nothing further can be done by the Appellant to comply with this particular request. The Panel notes that it does not matter due to the finding above regarding failure to provide other documents.

Of the three outstanding sets of documents, the Panel has found the Ministry was reasonable in determining that the bank statements and the T2125E Statement of Business and Professional Activities forms were within the control of the Appellant and her spouse to produce. Accordingly, the Ministry was reasonable in exercising its authority under Section 10 of the *Act* to discontinue the Appellant's family unit's income assistance.

The Panel notes the Ministry found under Section 32(1.1) of the Regulation that the Appellant cannot be denied income assistance for the January 2025 benefit month because she is at imminent risk of becoming homeless. Under this section, the Ministry can attach a \$25.00 sanction where records have been requested but not supplied. The Panel finds the Ministry was reasonable in levying the \$25.00 sanction given its finding regarding the Appellant's failure to provide the records set out above.

## Conclusion

The Panel wishes to express its concern that as of the date of the hearing, February 25, 2025, the Appellant had not been given her January income assistance and that she now finds herself homeless. This is an outcome at odds with the presumed intention of Section

32(1.1) of the Regulation which is to prevent people from becoming homeless. The Panel hopes the Ministry has been able to take immediate steps to remedy this situation.

The Appellant is unsuccessful on appeal, the Panel having found that the Appellant failed to comply with the obligation under Section 10 of the *Act* to provide information requested by the Ministry.

Accordingly, the Panel confirms the Reconsideration Decision.

## **Employment and Assistance Act**

### **Information and verification**

**10** (1)[Repealed 2024-4-3.]

(1.1)The minister may, for the purpose of determining or auditing eligibility for income assistance, hardship assistance or a supplement, do one or more of the following:

- (a)direct an applicant or recipient to supply the minister with information within the time and in the manner specified by the minister;
- (b)seek verification of any information supplied to the minister by an applicant or recipient;
- (c)direct an applicant or recipient to supply verification of any information the applicant or recipient supplied to the minister.

(1.2)The minister may, for the purpose of assessing employability and skills or assessing compliance with the conditions of an employability plan, do one or more of the following:

- (a)direct a recipient or dependent youth to supply the minister with information within the time and in the manner specified by the minister;
- (b)seek verification of any information supplied to the minister by a recipient or dependent youth;
- (c)direct a recipient or dependent youth to supply verification of any information the recipient or dependent youth 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)[Repealed 2024-4-3.]

(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)[Repealed 2024-4-3.]

## **EMPLOYMENT AND ASSISTANCE REGULATION**

### **Consequences of failing to provide information or verification when directed**

**32** (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

(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.

(1.1)Section 10 (4) (b) of the Act does not apply if the minister is satisfied that the family unit is homeless or at imminent risk of becoming homeless.

(2)Repealed. [B.C. Reg. 199/2024, App. 3, s. 6.]

APPEAL NUMBER 2025 - 0051

**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  
Corrie Campbell

Signature of Chair

Date (Year/Month/Day)  
2025/03/04

Print Name  
Glenn Prior

Signature of Member

Date (Year/Month/Day)  
2025/03/01

Print Name  
Bob Fenske

Signature of Member

Date (Year/Month/Day)  
2025/02/28