

**Reasons for Decision:**

**Order # AP1516-0523**

The appellant appealed that the appellant's file was closed and benefits cancelled and that the appellant was assessed with an overpayment.

A subsequent appeal made on the basis of application denied which was scheduled to be heard on the same date was not heard and will be re-scheduled for a separate hearing.

Overpayment

The program reported that they had received two Rental Information forms signed by the appellant. The first one was dated <date removed> with the appellant as the tenant with an occupancy date of <date removed>. The address listed was <address removed>. The amount of rent was <amount removed> per month. The second Rental Information form was dated <date removed> with a rental amount of <amount removed> per month. Both forms show the landlord as <name removed>.

On <date removed> the appellant's file was transferred to another office. The new worker met with the appellant on <date removed> and the Rental Information forms were discussed regarding the reasons for the increase in the rental amount. The appellant advised the program the increase was due to renovations. It was suggested that the appellant contact Residential Tenancies regarding the rent increase, which the appellant did not want to pursue as the appellant was moving out soon. Both rent forms show <name removed> as the landlord; the appellant advised that the appellant is <text removed>. This prompted an investigation due to a suspected common-law relationship. The program's investigator went to the <street name removed> address on <date removed> to do a housing confirmation but there was no answer. The program had received information from <another agency> who is actively involved with the appellant and the appellant's family that the appellant was residing elsewhere. The investigator went to the address provided by <another agency>.

The appellant answered the door but would not let the investigator in the home. The appellant told the investigator that the appellant had resided at this new <name of street removed> location since the first week of <date removed>. The appellant would not disclose any information about the landlord at the new address. Further investigation confirmed by the agency worker actively involved with the appellant stated that they had no knowledge of the appellant residing at the <street name removed> address at all.

On <date removed> the appellant met with a worker and the investigator. The appellant stated that the appellant still lived at the <street name removed> address and most of the appellant's belongings are still there, however the appellant is just

temporarily living elsewhere. After a lengthy discussion, it was confirmed by the appellant at this meeting that the appellant had never resided at the <street name removed> address at any time in <year removed> and has been at the <street name removed> address since <date removed>. On <date removed> an overpayment was assessed in the amount of <amount removed> for rent and rent supplements provided for the period from <period of time removed> for the <street name removed> address. The program provided the opportunity for the appellant to produce confirmation (copy of a lease) proving the appellant's residence and requirement to pay rent at the <street name removed> location for the period in question, however, no lease was produced. One was received by the program in late <text removed> showing the appellant as the tenant effective <date removed>.

The appellant attended the hearing with an advocate who presented on the appellant's behalf. The advocate stated that the appellant has admitted and apologized for misleading the program by stating that the appellant was residing at an address when the appellant never resided there. The appellant stated that the appellant was scared and under a lot of stress surrounding the process of <text removed> from <another agency> and falsified the appellant's living arrangement. It was argued that the appellant was required to and did pay rent to the <street name removed> landlord. While the appellant did reside there for a period of several weeks with a <name removed>, the duration of cohabitation was less than the period of time the program allows for determination of common law union, and therefore, the appellant should be allowed a rental amount and the overpayment decision to be reversed. At the least, the overpayment should be reduced by <text removed> month's rent as a lease showing the appellant as sole tenant has been produced.

#### LEGISLATIVE AUTHORITY FOR RECOVERY OF OVERPAYMENTS

##### Section 20(1) of The Manitoba Assistance Act

##### Recovery of payments made in error or on false statements

Where the government has provided or paid assistance or any income assistance, general assistance or shelter assistance to or for a person, if the assistance or income assistance, general assistance or shelter assistance, or any part thereof, would not have been provided or paid except for

- (a) false statement or misrepresentation;
- (b) an error; or,

After carefully considering the written and verbal information the Board has determined that the appellant received shelter benefits from the Employment and Income Assistance Program from <period of time removed> on the basis of false statements and misrepresentation. The appellant knowingly and complicitly provided false rental documents for an address the appellant did not reside at and for which the appellant was not entitled to benefits. The Board does not support the argument that the overpayment be reduced by an amount the appellant was required to pay elsewhere; the benefits that were received were because of false statements and are subject to recovery. Therefore the decision of the Director has been confirmed.

### File Closure

The advocate stated that there was some confusion surrounding the reason for the appellant's file being closed. First the program said closed due to no contact, when in fact, there was contact between the appellant and the program. A <date removed> letter was sent that the appellant's file was being closed following an investigation that concluded the appellant was residing in a common-law union and no longer eligible for benefits as a single parent. The letter advised the appellant to contact the program if the appellant wished to have the appellant's file reassessed jointly. In <date removed> a subsequent letter was sent advising that the program had not received the Annual Review form which was a requirement to maintain eligibility.

The appellant stated that the appellant did receive the letter regarding the Annual Review form and contacted the worker. The appellant said that the worker advised the appellant that the appellant didn't need to complete it as the appellant was no longer receiving benefits. The appellant also stated that the relationship with the worker is not pleasant and the appellant was not advised of all that was required.

The program representative stated at the hearing that although there were multiple reasons for closing the appellant's file, it was officially closed due to no contact, however, that should have been listed as non-compliance. The appellant was sent an Annual Review form to complete and return in <date removed>. On <date removed> a reminder letter was sent asking the appellant to complete the outstanding Annual Review Form as one of the requirements in order to re-establish eligibility. There was no response to this letter. On <date removed> the worker had a phone conversation with the appellant reminding the appellant of the request to complete and send in the annual review form. The program did not receive the form. On <date removed> the program officially closed the appellant's file.

The appellant did not satisfy the program's questions related to eligibility and the appellant's assistance had not been released for <text removed> when the file was closed in <date removed>. The program had numerous reasons to question and confirm the appellant's eligibility for benefits. The Board heard arguments that the appellant was residing in a common law relationship with <name removed>. Information included confirmation with <another agency> that the appellant resided with <name removed>, information from the appellant's <text removed> that the appellant resided with <name removed>, information from a landlord who advised she rented to the couple, utility bills in the name of both persons as a couple, and bank transactions made on the appellant's behalf by family members of <name removed>. The appellant and the advocate explained and refuted conclusions drawn through these pieces of information.

The Board heard that no overpayment had been assessed by the program on the basis of the appellant receiving benefits to which the appellant was not entitled because the appellant was living in an unreported common law relationship. The program reported that they strongly suspected the relationship, however, had not

come to a conclusion in this regard and did not close the appellant's file due to this matter.

After carefully considering all the written and verbal information the Board has determined that the appellant has not met the requirements of the program. The Board was satisfied that the program had legitimate reasons to withhold benefits until bona fide issues of eligibility were resolved. The Board had no requirement to determine whether the appellant resided in a common law relationship while receiving benefits for the period in question. However, the Board heard enough evidence in this regard to understand that the appellant was required to work cooperatively with the program to resolve this matter and the appellant did not do so. The program has reasonable expectations relating to participants' compliance with their requests in order to determine eligibility. The Board finds that the appellant has been advised in writing and verbally as to what is expected and was made aware of the program's requirements and process, and had opportunity to comply. Therefore the Board is confirming the decision of the Director and this appeal is dismissed.

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