

Reasons for Decision:

Order # AP1819-0278

<name removed> appealed that their request for Employment and income Assistance as a single applicant was denied due to an alleged common-law relationship, with <name removed> also an income assistance participant.

The Department stated that <name removed> attended an intake appointment on <date removed>. The appellant advised that they moved from Vancouver to Winnipeg together and live with their parents, since <date removed>. The Departments Relationship Assessment Form was completed where the appellant indicated they live with their partner, <name remove> attended the intake appointment with the appellant, and both referred to each other as boyfriend and girlfriend and were observed displaying forms of affection.

At the hearing, the Department confirmed that the appellant and <name removed> also own an online business together, confirming financial interdependence.

The Department determined that as the appellant and <name removed> have identified themselves as a couple, advised they intend to marry, and reside in the same family unit. This satisfies the required criteria to be assessed as common-law within the EIA program, and therefore were both re-enrolled as such.

The Department allows a three-month period of a new common-law relationship before assessing the file as one. The appellant and <name removed> were supposed to received assistance as single applicants for three month, however the Department advised at the hearing an error was made and they only issued single benefits for two months. The Department will do an adjustment and issue the appellant deficit payment.

The Department stated that the definition of the word conjugal does not make reference to the level of physical intimacy or sleeping arrangements. They defined it by the Oxford dictionary as relating to marriage or the relationship between a married couple and this is the context in which the department applies the term.

The appellant attended the hearing with their partner and their father, who acted on their behalf. The father stated that their child was a student in Vancouver and was three months away from graduating when they had a breakdown. The appellant and <name removed> were dating in Vancouver but lived separately. Due to unfortunate circumstances, they had to move out of their separate residences and came to Winnipeg to live with the appellant's parents.

The father confirmed that their child and <name removed> are in a relationship but not living together in the sense of a common law relationship.

They were living in separate residences in Vancouver, <name removed> in their parents' home and the appellant with other unrelated individuals. The father advised that both their child and <name removed> have medical issues and agreed to allow both of them to stay in their home, for a reasonable rent, until they get back on their feet. They maintain separate bedrooms rooms, as their religion prohibits them from premarital intimate relations and they do not share bank accounts .

The appellant advised that they have been prevented from working the last three years due to health reasons and is trying to start up a previously shared jewelry business again with <name removed> again. The appellant also advised they are in a lot of debt and cannot afford to live separately at this time.

The appellant stated that they were made to believe they would not be eligible for any income assistance benefits unless they signed as common-law, so they felt they had no choice to sign as common-law in order to receive benefits.

*According to The Manitoba Assistance Act Section 5(5):
Where two persons who are not legally married to each other are living together under circumstances that indicate to the director that they are cohabiting in a conjugal relationship, they shall, for the purposes of this Act and the regulations, be treated in the same manner as two persons who are legally married, and any application by either or both of them for income assistance or general assistance shall be dealt with in every respect in that manner.*

In order to provide direction to staff in determining whether or not a common-law relationship exists, the program has developed policies to clarify which "circumstances" are to be considered. In Section 8.1.4 of The Employment and Income Assistance Administrative Manual the existence of a common-law relationship is based on:

- a. **Shared residency and family composition.** All married couples, self- declared common-law partners and adults that are the parents of a child together or have maintenance obligations in place for each other or the children in the household are considered spouses or common-law partners.

For all other non-familial, cohabiting relationships the program will apply the other factors of common-law status once a cumulative three months of shared residency in a six-month timeframe have passed.
plus one of the following two factors:

- b. **Family/social interdependence** - the degree to which the two adults who are living together interrelate with family, friends and community as a couple rather than as two people sharing a residence .

- c. **Financial interdependence** - the degree to which the two adults who are living together support each other financially.

After carefully reviewing the written and verbal information, the Board finds that the Department has treated <name removed>'s situation fairly. The Board has determined that although there may not be a conjugal relationship between <name removed> and their partner, for Employment and Income Assistance purposes, they are a couple residing together with family/social interdependence, and shared finances together due to the business.

The Board has determined that the Employment and Income Assistance Program did have enough information before it, to support the decision to assess benefits for the appellant under the common law provisions of the Program. Therefore, the decision of the Director has been confirmed and this appeal has been dismissed.

The appellant also requested in their appeal to receive retroactive benefits for the period between their request for an appointment with EIA on <date removed> to their actual appointment date of <date removed>.

The Department advised that during the pre-intake orientations, all participants are advised of the program requirements and if in desperate need of assistance prior to their intake appointment, they can request emergency assistance, which is provided in the form of a food voucher. The appellant confirmed they did not make a request for assistance at the intake appointment. The Board finds this to be clarified at the hearing, and no decision on this matter was rendered.

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