

**Reasons for Decision:**

**Order # AP1920-0711**

On <date removed>, <name removed> filed an appeal against the decision of the Director, Centralized Services to assess an overpayment of <amount removed>. The decision was communicated in a letter dated <date removed>.

The decision letter stated the Department was unable to determine <name removed>'s eligibility for the period <dates removed>.

<name removed> told the Board they disputed the Department's calculation of the overpayment, asserting that discrepancies in the Department's calculation called into question whether they had been overpaid.

<name removed> noted some income amounts they declared were recorded by the Department in the month following their declaration. The appellant also pointed out several differences between the amount reported as being paid on their budget letters and the amount recorded on the Department's overpayment calculation. In some months, the revenue and expenses reported by the Department do not match their records.

<name removed> stated they provided the Department in <date removed> with all their receipts and bookkeeping for <year removed> and <year removed>. The appellant did not provide records for <year removed>, because they were taking a bookkeeping course and did not want to prepare their <year removed> books until they had completed the course.

<name removed> stated they did provide the Department with <year removed> receipts and bank statements. The appellant asserted that they provided all receipts for all expenses, with the exception of some expenses paid for by family or friends. The appellant told the Board they provide free hairstyling services to some people in return for contributions in-kind, such a styling product.

<name removed> submitted that the Department did not provide guidelines to them for reporting their business revenue and expenses. In the absence of clear guidelines, they used the Canada Revenue Agency (CRA) classification of expenses. The appellant later discovered that the Department had a different list of eligible expenses. The appellant suggested that the CRA classification was the standard for small businesses and the Department should harmonize its list with CRA's list.

In the absence of clear guidelines, <name removed> maintained that they performed their bookkeeping to the best of their ability.

<name removed> noted that the Department stated they chose not to work with Supporting Employment and Economic Development Winnipeg (SEED) to set up their business accounting. <name removed> asserted that they were willing to work with SEED, but SEED did not accept them as a client.

<name removed> acknowledged that they did not provide the Department with the private phone numbers of their clients. The appellant believed they did not have their consent to provide their personal information to the Department.

<name removed> asserted that the Department's position that they were not declaring all their income did not make sense for their personal circumstances. The appellant noted they only had a few years to increase their pension amount, and their future pension would be reduced if they did not declare all their income.

<name removed> noted the Department started its investigation because it believed their monthly expenses significantly exceeded their monthly income. The appellant asserted that their business revenues matched their business expenses, and their assistance covered their monthly rent. The appellant's food costs were very low, as they cook for their son using their food, or accesses a food bank.

In summary, <name removed> asserted that mistakes in their bookkeeping and the Department's calculation created an appearance that their expenses exceeded their income, but the appearance was not true.

At the hearing, the Department reviewed its written report *in extenso*. The Department agreed that it began an investigation because it wanted to know how <name removed> was covering their monthly shortfall in income.

The Department stated <name removed> submitted monthly income declarations. However, their income was derived from self-employment earnings, and the Department asserted that it was not able to establish a clear accounting of income, personal expenses and business expenses.

The Department identified a number of inconsistencies that raised concerns, including:

- <name removed> uses at least four different names;
- The Department discovered an undeclared vehicle loan from <year removed>, and <name removed>'s explanation of the nature of the loan changed over time;
- <name removed> submitted a letter from a salon owner confirming <name removed>'s income, but the salon owner denied writing the letter;
- The car dealership denied using the letter as proof of income for the vehicle loan;
- <name removed>'s <year removed> tax return reported different business income than they reported to the Department and to financial institutions;
- The <year removed> tax return did not report any business expenses.

The Department stated it met with <name removed> a number of times over several months in an attempt to develop a clear accounting of their income and expenses. <name removed> cooperated by submitting many of the documents requested by the Department, but the Department was unable to determine how <name removed> was managing their consistent monthly losses. The Department noted consistent losses often are an indication of unreported income.

Based on the information submitted by <name removed>, the Department could not establish their eligibility for assistance. The Department met with <name removed> in <date removed> to reiterate its monthly reporting expectations, but <name removed> requested that their file be closed in <date removed>.

The Department noted <name removed> has not submitted additional information or requested a new intake since their file was closed.

In response to a question from the Board, <name removed> confirmed that they currently were working at a hairstyling salon as a self-employed stylist.

<name removed> explained that they used a combination of names because they had difficulty changing their identification documents. The appellant stated the Department has them listed under their birth name of <name removed>, while some business documents have their former married name of <name removed>. On a daily basis, they use <name removed>. The appellant was unclear what name they used when they filed their taxes. The appellant asserted that they never used the name <name removed>, and suggested it was a typographical error by the Department.

<name removed> told the Board they required a vehicle because they moved in with their ill sibling and could not get to work. The appellant's sibling agreed to reduce the amount of rent they charged <name removed> by the value of the vehicle loan. However, the vehicle was written off a few months later, and <name removed> used the settlement to pay off the loan. The appellant acknowledged that the letter from the salon owner confirming their income was not accurate.

In response to a question from the Board, the Department stated that, if <name removed> were unsuccessful on appeal, they would be required to set up a payment plan for the loan with the Department. If they do not agree to a payment plan, the Department will recover the overpayment through set-offs against other benefits or refunds administered by CRA.

The Department acknowledged <name removed>'s statement that they tried their best to understand the reporting requirements. The Department exercised considerable latitude in keeping their file open and delaying the assessment of an overpayment while it worked with them. However, there was insufficient information to determine eligibility.

The Department stated that <name removed> was welcome to submit their <year removed> accounts for review, once they have used their new bookkeeping knowledge to finalize the accounts.

The Board acknowledges that the time lag for reporting income established by the Department can cause confusion. <name removed> earned income in one month and reported it to the Department in that same month, but the Department used the income to determine the amount of assistance in the following month, consistent with its own procedures. The Board reviewed the timing discrepancies identified by <name removed> and determined the amounts were recorded in the correct months.

The Board also notes that there is often a difference between a recipient's assistance budget and the amount received, due to various deductions or direct payments. For example, in <date removed> <name removed>'s budget was <amount removed> but their budget letter recorded a net amount paid of <amount removed>. The budget letter notes the rent amount of \$576 was paid separately, which accounts for the difference flagged by <name removed>.

Some of the alleged discrepancies arose because of differences in the definition of allowable expenses. For example, <name removed> reported net income of <amount removed>, but the Department deducted <amount removed> in net income. It appears the Department did not accept a Canada Post expense of <amount removed>, which explains the difference.

In summary, the Board reviewed the discrepancies identified by <name removed> and determined there was no material impact on the determination of eligibility. The Board suggests that the Department consider whether it would be feasible to notify self-employed assistance recipients of any changes made to their income declarations.

By <name removed>'s own admission, their accounting records were poor and they did not believe they accurately portrayed their financial position. This admission does not help their case. The evidence shows that, over a 29-month period, their business expenses exceeded their business revenues by <amount removed>, or <amount removed> per month. The appellant could not have covered that loss from their assistance budget, because their rent alone exceeded their assistance by more than <amount removed> per month. <name removed> was short more than <amount removed> per month on a budget of less than <amount removed>.

If <name removed> underreported their expenses, their actual financial position would be worse. As there is no evidence to demonstrate that <name removed> has substantially increased their level of debt, the only explanation of how they get by each month is that they have unreported income. As part of their improved bookkeeping procedures, <name removed> should issue receipts for all services performed, and reconcile those receipts to their cash on hand at the end of every work day.

After careful consideration of the written and verbal evidence submitted to it, the Board determines that the Department did not have sufficient information to determine <name removed>'s eligibility for the period <dates removed>, and confirms the Director's decision to assess an overpayment of <amount removed>.

## **DISCLAIMER**

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