

Reasons for Decision:

Order # AP1920-0313

On <date removed>, <name removed> filed an appeal against three decisions of the Director, Westman. The first decision was to require them to separate her marital assets by having their ex-spouse's name removed from the mortgage and by selling vacant property beside their home, and was communicated in a letter dated <date removed>. The second and third decisions were to pay only half of <name removed>'s house insurance and property taxes, and those decisions were communicated in a budget letter dated <date removed>.

<name removed> told the Board they appealed these issues five years ago <text removed>, and the Board gave them until <date removed> to have their ex-spouse's name removed from the title and mortgage.

<name removed> stated they have approached their bank about having their ex-spouse's name removed from the mortgage, but the bank denied them because it does not consider income assistance to be a stable source of income.

<name removed> asserted that their ex-spouse's name was never on the house insurance policy.

<name removed> stated they did not understand why the Department currently has an issue with the long-standing arrangements for their house. The appellant noted the Department has placed a lien on their house, so Department money is paid back when they sell the house.

<name removed> stated their ex-spouse had been charged with child abuse, and had a court order barring contact with the children. The appellant asserted that was substantial proof that they were not a part of their life, financially or otherwise.

The Department referenced the written report it submitted as evidence. The Department acknowledged that the Board directed it to pay the full cost of shelter as a result of <name removed>'s last appeal. The Department disputed <name removed>'s assertion that the direction was for five years, asserting that it was for a "reasonable time".

The Department stated it only pays for an assistance recipient's share of shelter costs. If there are two names on a mortgage or insurance policy, the Department only pays half. If <name removed> has their ex-spouse's name removed from all shelter-related documents, the Department will pay full costs.

The Department noted it allows assistance recipients time to separate their marital assets, but typically allows only four months.

The Department asserted that the vacant property beside <name removed>'s house is an excess asset, and they are required to dispose of it. The Department stated it contacted the Rural Municipality of <text removed>, which confirmed the property could be sold.

The Department told the Board it considers the ex-spouse to be responsible for half the insurance cost if their name is still on the mortgage. The Department noted it is covering both building and content insurance, because the cost of the content insurance could not be separated from the cost of the building insurance. <name removed> noted the insurance cost was high because the town does not have fire hydrants.

In response to a question from the Board, <name removed> confirmed that they were living alone with their children, and that their ex-spouse was barred by court order from contacting the children. The appellant stated they do not receive any money from them for shelter costs. The ex-spouse pays child support, but only because their wages are garnished.

<name removed> stated their ex-spouse was never on their income assistance file.

<name removed> told the Board the property taxes on the vacant lot were <amount removed> for the year. The Board asked if they had attempted to sell the lot. <name removed> stated they listed their house and both lots for sale in <date removed>. The house was for sale for six months, but they were unsuccessful.

<name removed> asserted that the previous owner told them the vacant lot could not be sold separately from the house. In response to a question from the Board, <name removed> stated that the vacant lot was too narrow to build a house on. The appellant stated their garage encroaches on the vacant property, and they suspects the encroachment is the reason the former owner told them the lot could not be sold separately.

In response to a question from the Board, <name removed> reiterated that they have already approached the bank about obtaining a mortgage in their own name, and was denied.

<name removed> told the Board she was dissatisfied with Department's handling of their file, and they have made their dissatisfaction known to the Department. The appellant suggested their issues with shelter costs were the result of her dissatisfaction. The Department responded that the ongoing nature of the Board order was flagged during an annual review, and the Department's leading program specialist advised the order was not open-ended.

<name removed> asserted that the Department's requirements will require them to sell their house, and rent new accommodations. The appellant stated a comparable house in <city removed> costs approximately <amount removed> per month. The appellant

noted the Department would not fund that amount of rent, and they will have to cover the difference from their basic needs budget. The Department would not cover insurance if they were renting.

In response to a question from the Board, <name removed> asserted that there was no equity in the house when they listed it for sale in <year removed>. The appellant suggested that any growth in equity since <year removed> would only cover the Department's lien.

<name removed> expressed frustration that they had to appeal the Department's decision again, given that they believed the original Board order was valid until <date removed>.

This Board has reviewed the order of the previous Board, and notes that the order had no time limit. However, while <name removed> could have argued that the Department had failed to implement a Board order fully, they chose to file a new appeal instead.

The Board recognizes that the Department must ensure it is providing support only to eligible recipients. The Board understands the Department's position that people who are not in receipt of assistance must pay their share of the shelter costs.

The Board notes there is no evidence submitted that <name removed>'s ex-spouse is contributing to the costs of their house. The ex-spouse is not receiving a benefit from the housing, either financially or as a place to stay. In fact, they are barred from entering or approaching the house.

The Department stated its policy is to pay for an assistance recipient's share of shelter costs. In <name removed>'s case, the evidence before the Board indicates they share of the shelter costs is 100 per cent.

To comply with the Department's directive on the vacant property, <name removed> has two options, both of which will cost them money and not provide a corresponding benefit. As the garage encroaches on the vacant property, they can subdivide the vacant property and annex the portion with the garage on it to the lot their house is on, which will entail considerable legal costs, and produce a lot too small to build anything on. Alternatively, they can demolish the garage at their own cost to remove the encroachment. As they pay less than <amount removed> per year in property taxes on the vacant lot, the value of the vacant property is likely less than the cost of demolishing the garage and removing the debris.

The Board notes that an unduly legalistic approach to applying a policy can result in negative consequences without obtaining the intended benefit. In <name removed>'s case, the Department's approach will not ensure that their ex-spouse pays their share of the shelter costs, because they have no relation to the house and is not paying any costs. It will not make them financially better off through the sale of the vacant lot, because the value of the lot is insignificant. However, the approach will require her to

sell their house, with little or no benefit, and move into more costly accommodations that are only partially funded by the Department.

The Department's policy on mortgage payments states

19.1.11 Mortgage Payments

Under Schedule B, section 2(a) of the Regulation, the director or designate may approve mortgage payments for new or re-enrolled participants where the combined principal, interest and current net taxes are comparable to the relevant rent guideline amount.

The participant must be advised upon enrolment of the shelter guideline amount and that each case involving homeowners is reviewed to determine the amount of financial assistance to be provided. Staff should obtain the necessary background information relating to both the mortgage and the participant's situation. Special attention should be given to situations where the aggregate of the payments exceed the rental guideline amount, there is little or no equity involved, or bank foreclosure is likely or in process.

The director or designate may approve:

1. full mortgage costs for a reasonable period of time (normally four months) in order to allow the participant time to make alternate arrangements; or
2. less than the full mortgage costs on a permanent basis; or,
3. the full mortgage costs on a permanent basis; or
4. mortgage payments in excess of the relevant guideline.

Financial assistance, which covers the cost of the principal portion of a mortgage payment and tax arrears, is lien refundable.

After careful consideration of the written and verbal evidence submitted to it, the Board determines that <name removed>'s situation warrants an exception to Department policy. The Board rescinds the decision of the Director and orders the Department to waive the requirement to remove <name removed>'s ex-spouse from the mortgage. The Board also rescinds the decision of the Director and orders the Department to waive the requirement that <name removed> dispose of the vacant lot for as long as the garage encroaches on the property. The Board rescinds the decision of the Director and orders the Department to pay the full cost of <name removed>'s property taxes and basic property insurance, effective <date removed>.

This order has no time limit.

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