

Comments in response to letter received Monday January 15th 2007 from the City of Ottawa.

December 21 stth, 2006

Mr. Robert Chisholm

Ottawa, Ontario K2G1H1

Tribunal File: **0605-04207**

Dear Mr. Chisholm:

Attached is the City of Ottawa's response to the Social Benefits Tribunal's request for submission.

Should you choose to withdraw your request for a hearing after reviewing the attached information, please contact your client service representative at; **1-800-753-3895 ext. 65905 or fax at 1-416-326-5135.**

Failure to contact the Tribunal will result in a hearing proceeding on January 17th, 2007 at 9:00 AM.

Comments: I received no such response dated December 21st 2006 – until today, Monday January 15th 2007. The DHL / Loomis envelope was marked “RE-DELIVERY” - but I was not apprised in any way until Friday January 12th 2007 of any further documentation for me from the City of Ottawa, when I received a phone call from DHL requesting directions. I also received no card notifying me of any registered letter, or some such, for me to pick up, in connection with this letter dated December 21st 2006. Nor had I signed any document confirming receipt of any such submission / letter – until today, January 15th 2007, 2 days before the Hearing. On the Notice of Hearing, it also states that :-

“ In addition to providing a written submission within 30 days of receiving the appeal the legislation also states that the Administrator/Director who intends to produce written or documentary evidence or written submissions shall provide copies to the parties at least 10 days before the hearing”.

Therefore, the City of Ottawa has failed to submit the document within the time frame required by law. Further, no similar document was submitted by the Social Benefits Tribunal in support of their case, within the time frame required by law. In addition:-

- (1) This development is clearly vexatious and appears to have been sent to me after I requested permission to have observers at the Hearing, which permission was refused.**

This refusal, allegedly based on the legislation, was clearly designed to prevent the Tribunal or any of the other persons involved from being held accountable in public for their actions in my case.

- (2) The Tribunal is not in a position to claim impartiality in this matter because one of its own members, Roger R. Presseault, was partly responsible for creating the situation involved which has already been fully documented.

(PAGE 1 OF 5 – EXTRACT)

The appellant applied for GWA as a result of his recent unemployment. The appellant declared that he applied for Unemployment Insurance (UI) pending finding alternate work. The appellant's spouse had recently left her employment to give birth and had applied for UI maternity benefits. The couple received GWA pending receipt of UI. The couple completed assignment of benefit forms as well as repayment agreements to the City.

As the appellant has described in his submission, his claim for UI was initially denied. His spouse's claim for UI was granted and was budgeted from their GWA assistance.

Comments:-

I do not recall any correspondence concerning the said U.I. benefits to my spouse being "...budgeted from (our) GWA assistance..." . I received no notification concerning this, yet I am now being called to account for it 12 years later. **OUT OF ORDER**

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\$6,458.45 representing the GWA the appellant received from January 1995 to July 1995 was assessed to the appellant as a result of undeclared income from his rental property, as well as an asset in excess of his eligibility. The appellant was given notice of the overpayment.

The overpayment assessed in 1995 remained part of a backlog of cases awaiting collection until 2003 when the City was able to review and pursue the collection of the debt.

The appellant commenced payment of the debt in 2006 by way of post dated cheques of \$75.00 monthly with the exception of a \$150.00 payment in November 2006. The appellant's current overpayment balance is \$5,107.55.

On May 18th, 2006 the appellant commenced an appeal with the Social Benefits Tribunal.

Comments:-

The Tribunal has already received full and documented submissions from me concerning this. A key factor, which the Tribunal chooses to ignore, is that the so-called “undeclared income” was fictional and is based on the notion that the mortgage payments on the property, which were in

fact the major expense, were “not allowable” as expenses, which is counter-intuitive and ignores the realities of the situation.

(The following appears on “Page 3 of 5”)

Analysis:

The Appellant was given notice of the overpayment in 1995 and again in 2003. The appellant has acknowledged in his submission having received notices of the overpayment repeatedly since incurring the debt, but he believes the overpayment should have been exempt, because his apartment complex was not generating a profit.

The Appellant clearly did not appeal within the 30 day time period set out in the General Welfare Assistance Act. Thus, it is the Administrator's submission that this appeal be dismissed on this basis alone.

The Ontario Works Act and its regulations allow administrator's to enforce overpayments, which were incurred under the General Welfare Assistance Act.

The Appellant was given notice in 1995 when the overpayment was incurred and again in 2003 when the City reviewed the debt. He did not appeal and therefore the administrator's position is that the overpayment remains enforceable.

The appellant's GWA assistance was terminated in 1995 after a review of his Tax Assessment, which indicated that he was in receipt on rental income and an asset, which exceeded his allowable level. The appellant failed to disclose at the time of his application that he was the owner of an apartment complex, and failed to declare his rental income.

Comments:-

1. “The Appellant was given notice of the overpayment in 1995”. Not true: there was no written notice to me at the time of possible claw-back of the benefits later, even when I still had no job. For the same reason, there was no reason to lodge any appeal at the time.
Unsatisfactory argument.
2. “He did not appeal and therefore the administrator's position is that the overpayment remains enforceable.” See item 1 above. The necessity for such an appeal became clear only in 2006; I received a letter dated April 24th 2006 from Susan Bihun- Regional Director, Ministry of Community and Social services, Eastern Region, in Ottawa – advising me to appeal the Social Benefits Tribunal.
3. “The appellant's GWA assistance was terminated in 1995 after a review of his Tax Assessment, which indicated that he was in receipt on rental income and an asset, which exceeded his allowable level.” This point has already been covered.

The appellant has indicated in his submission that he misrepresented his situation at the time of his application because his property was not producing a net income, therefore exempt in his view, from having to be declared.

Neither the GWA legislation nor the Ontario Works legislation exempts rental income as an asset or income.

In addition, the appellant received Employment Insurance, which as he indicated was received as a result of an appeal, months after his GWA file was closed, but chargeable for the same period the appellant received GWA. The appellant was clearly made aware at the time of his application and completed repayment agreements acknowledging his obligation to reimburse the City once the UI was in pay-The appellant commenced repayment of the overpayment in 2006, having negotiated these payments with the Overpayment Recovery Unit of the City. The arrangements have been satisfactory to the City and no interest or charges have been applied as a result of the settlement.

Conclusion:

The appellant has the onus to show that the overpayment was not assessed properly, or is being improperly collected. The appellant has provided the Tribunal with no statutory authority for his position.

There is no regulation in either the General Welfare Act or the Ontario Works Act, which limits the time that the administrator is allowed in the collection of overpayments. The Ontario Works Act specifically provides the authority for the administrator to collect overpayments created under the General Welfare Act.

The appellant was charged an overpayment because he failed to disclose an asset (apartment complex), and rental income in excess of his eligibility.

In addition, the appellant received Employment Insurance retroactively to the period of GWA, which was not refunded. Funds received from employment Insurance are budgetable for the period intended. Therefore had the appellant not accrued an overpayment as a result of his apartment complex, the outcome of the overpayment would nevertheless remain the same, because his obligation to reimburse the GWA payments once his UI was in pay.

The appellant did not exercise his right to appeal to the Social Benefits Tribunal within the required time frame, therefore the administrator submits that the overpayment remains enforceable against the appellant.

Comments:-

1. "Neither the GWA legislation nor the Ontario Works legislation exempts rental income as an asset or income. This point has already been covered."
2. "In addition, the appellant received Employment Insurance, which as he indicated was received as a result of an appeal, months after his GWA file was closed, but chargeable for the same period the appellant received GWA."

You have already received full details of what transpired, which partly consisted of legalistic sophistry emanating from lawyers and others which was designed to prevent me from becoming a taxpayer again. In particular, refusal of admission to ON-SITE" partly because of the involvement of lawyer Jonathan P. Langsner of HRDC's Legal Services Department

3. "The appellant has the onus to show that the overpayment was not assessed properly, or is being improperly collected. The appellant has provided the Tribunal with no statutory authority for his position."

There is no regulation in either the General Welfare Act or the Ontario Works Act, which limits the time that the administrator is allowed in the collection of overpayments."

These points have already been covered.

4. "Therefore had the appellant not accrued an overpayment as a result of his apartment complex, the outcome of the overpayment would nevertheless remain the same, because his obligation to reimburse the GWA payments once his UI was in pay."

The appellant did not exercise his right to appeal to the Social Benefits Tribunal within the required time frame, therefore the administrator submits that the overpayment remains enforceable against the appellant."

These points have already been covered and require no further comment from me

Request:

It is therefore requested that the Social Benefits Tribunal dismiss the appeal of the appellant."

Comments and Conclusion

The whole set of arguments on which this case against me is based is totally inapplicable. Finally, as mentioned at the beginning, the City of Ottawa and Social Benefits Tribunal failed to submit relevant documents within the time limits prescribed by law. Therefore this dismissal of my appeal is INVALID