

ARE YOU A STUDENT AND SOCIAL ASSISTANCE RECIPIENT?

You are receiving social assistance. You decide to take some university courses. Are you obliged to declare this fact?

THE FACTS

A man and his wife were receiving social assistance. The husband decided to take some university courses in order to obtain a certificate in management. At first, he was registered for only one course per term, but in the fall of 2002, he decided to register for three courses. The Ministère de l'Emploi et de la Solidarité sociale claimed an amount of more than \$2,416.74 from the couple on the ground that the husband had been studying on a full-time basis during the period in question, namely during the fall 2002 term. Indeed, under the Individual and Family Assistance Act [formerly the Act respecting income support, employment assistance and social solidarity], an adult who is registered for more than two courses, representing more than six credits, is not eligible for last resort financial assistance. Furthermore, this Act requires all recipients of financial assistance to give notice of any change in their circumstances that may affect the assistance granted. The husband alleged that he had been unaware of his obligation to notify the Minister that he had registered for more courses during the term in question. He did not think that there had been any change in his circumstances, because he had been taking university courses since the fall of 2001. According to him, although the number of courses for which he had registered had increased from one to three, he had still been a part-time student, because the university and the Ministère de l'Éducation had considered him as such.

THE ISSUE IN DISPUTE

Does a recipient of social assistance have the obligation to reimburse the benefits received during the period when he was registered for

three courses representing at least six credits per term of post-secondary studies?

THE JUDGMENT

The recipient's recourse was dismissed. He was required to refund the \$2,416.74 to the Minister of Employment and Social Solidarity.

THE REASONS

In reality, in the fall of 2002, the husband had been a full-time student within the meaning of the Act respecting income support, employment assistance and social solidarity. He had been registered for three courses, representing nine credits during the period in question. Ignorance of the law cannot be a valid reason for exempting someone from the performance of their legal obligations. Furthermore, the husband had breached his obligation to declare what amounted to a change in his circumstances, by failing to indicate in his monthly declarations that he was registered for three courses (nine credits) and no longer just one course. The court concluded that the individual and his family had received benefits to which they had not been entitled. He was therefore required to reimburse these amounts to the Minister of Employment and Social Solidarity.

References

R.S. v. Ministre de l'Emploi et de la Solidarité sociale, Administrative Tribunal of Québec (A.T.Q.) Social affairs division SAS-M-092908-0405, 2005/04/01, Decision rendered by: Élane Joly-Ryan, lawyer, and Suzanne Lemire, social worker (www.jugements.qc.ca)

An Act respecting income support, employment assistance and social solidarity, (R.S.Q., c. S-32.001), ss. 15 and 39.

Regulation respecting income support, (R.R.Q., c. S-32.001), r. 1, s. 6

The judgement discussed in this article was rendered based on the evidence submitted to the court. Each situation is unique. If in doubt, we suggest you consult a legal aid lawyer.

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