

### PART C – Decision under Appeal

The decision under appeal is the ministry's reconsideration decision of 29 December 2011 which held that the appellant was not eligible for income assistance under the Employment and Assistance Act as the ministry had determined he had not demonstrated reasonable efforts to comply with his employment plan as provided under section 9 of the Act.

### PART D – Relevant Legislation

Employment and Assistance Act (EAA), section 9

## PART E – Summary of Facts

Both the appellant and the ministry failed to appear at the hearing at the scheduled time, date and place. After verifying that the appellant and the ministry had received notification of the hearing at least 2 business days before the hearing date, by examining the Canada Post tracking delivery confirmation report of the Notice of Hearing to the appellant and the fax transmit confirmation report to the ministry, the hearing proceeded under section 86(b) of the Employment and Assistance Regulation.

The evidence before the ministry at reconsideration includes:

- The appellant's Employment Plan (EP) signed by him on 28 September 2011. The EP refers him to a BC Employment Program (BCEP) contractor (telephone number and address provided) and under required activities he is to attend an intake appointment with the contractor on 06 October 2011, attend daily for a minimum of 35 hours within the first 30 days and at all times comply with the other obligations set out in the EP. The EP includes an Acknowledgement section which contains the statement: "...I understand that if I do not comply with the conditions of this employment plan, the assistance issued to me and/or my family will be discontinued."

From this point, the information from the ministry's records shows the following chronology:

- 07 October 2011: BCEP reported that the appellant was a no-show for his 06 October intake appointment. As he was NFA at that time, no letter was sent. An attempt was made to telephone him, with no answer. A file note was made to advise him to contact the contractor to rebook intake if he contacted the office before 21 days (by 18 October).
- 24 October 2011: a BCEP report notes that the appellant's EM file had been closed as he did not attend the intake as required. A file note was made to ask for mitigating circumstances – if no mitigating circumstances, he would not be eligible for income assistance. A letter was sent to an address on file to advise him that, as he has not met the work related requirements, he is not eligible for income assistance until he meets with a ministry worker and submits satisfactory reasons for noncompliance with his EP.
- 30 November 2011: The appellant requested income assistance and informed the worker that he did not have mitigating circumstances for noncompliance of his EP. He indicated that he did not attend the contractor as per his EP because he was late and was asked to leave. There is no indication on file that he attempted to rebook the intake appointment. His request for income assistance was denied and he was given the Request for Reconsideration material.

In his Request for Reconsideration dated 12 December 2011 the appellant writes:

Before important decisions are made regarding this case before you I would like to invite "To whom it may or may not amuse" to a personal explicatory interview with myself and [Ms. A] because we both were promised that upon my receipt of "social assistance" we were to be enabled to find housing together as man and wife, or perhaps more properly

speaking wife and man, and to have me apply for PWD in order to facilitate our progress into security of placement and amalgamation of all expense this was for unknown reasons a promise by the [local inter-agency group] that was broken and caused the both of us dislocations and much distress that has previously undermined our conviviality, happiness, potential, and reasonable expectations to move forward with our lives together. [Signed by both the appellant and Ms. A.]

In his notice of appeal dated 30 December 2011 the appellant gives as reasons for appeal: "I believe the ministry decision was (utterly) unreasonable."

## PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry decision, pursuant to section 9 of the EAA, that the appellant was not eligible for income assistance because he had not demonstrated reasonable efforts to comply with his EP, was reasonably supported by the evidence or a reasonable application of the legislation in the circumstances of the appellant.

The relevant legislation is set out in the EAA, section 9:

### Employment plan

- 9 (1) For a family unit to be eligible for income assistance or hardship assistance, each applicant or recipient in the family unit, when required to do so by the minister, must
- (a) enter into an employment plan, and
  - (b) comply with the conditions in the employment plan.
- (2) A dependent youth, when required to do so by the minister, must
- (a) enter into an employment plan, and
  - (b) comply with the conditions in the employment plan.
- (3) The minister may specify the conditions in an employment plan including, without limitation, a condition requiring the applicant, recipient or dependent youth to participate in a specific employment-related program that, in the minister's opinion, will assist the applicant, recipient or dependent youth to
- (a) find employment, or
  - (b) become more employable.
- (4) If an employment plan includes a condition requiring an applicant, a recipient or a dependent youth to participate in a specific employment-related program, that condition is not met if the person
- (a) fails to demonstrate reasonable efforts to participate in the program, or
  - (b) ceases, except for medical reasons, to participate in the program.
- (5) If a dependent youth fails to comply with subsection (2), the minister may reduce the amount of income assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period.
- (6) The minister may amend, suspend or cancel an employment plan.
- (7) A decision under this section
- (a) requiring a person to enter into an employment plan,
  - (b) amending, suspending or cancelling an employment plan, or
  - (c) specifying the conditions of an employment plan
- is final and conclusive and is not open to review by a court on any ground or to appeal under section 17 (3) [reconsideration and appeal rights].

The position of the ministry is that under section 9(4) of the EAA, a person is considered not to have met the conditions of an EP if he fails to demonstrate a reasonable effort to attend or participate in an employment related program as stipulated in the EP. Section 9(3) of the EAA provides the minister the authority to prescribe the conditions of an EP, including a referral to an employment related program. Further, section 9(1) of the EAA provides that a person must comply with the terms of an EP to maintain eligibility for income assistance. The requirement to comply with the conditions of his EP and the consequences of non-compliance were noted in the appellant's EP that he signed on 28 September 2011. The ministry notes that he failed to attend the intake assessment scheduled for 6 October 2011 and failed to make contact with the contractor to reschedule the missed appointment. The ministry states that in his Request for Reconsideration, the appellant failed to offer substantive mitigation circumstances to explain his failure to comply with his EP. Thus the ministry determined that the appellant did not demonstrate a reasonable effort to comply with the conditions of his EP.

The position of the appellant is that the ministry's decision is unreasonable. In his Request for

Reconsideration he refers to issues he has with the ministry about living together with Ms. A, an alleged broken promise by the local inter-agency group and his applying for PWD designation.

The panel finds that the appellant did not attend his intake appointment with the BCEP contractor nor did he make any effort to contact the contractor to make a new appointment or otherwise comply with his EP. The panel notes the evidence from the ministry's records concerning the appellant's 30 November 2011 office visit to apply for income assistance. At that time he informed the worker that he did not have mitigating circumstances for noncompliance of his EP. The panel finds that the points raised in his Request for Reconsideration relate to issues not relevant to this appeal and do not constitute mitigating circumstances. Accordingly, the panel finds that the ministry reasonably determined that the appellant failed to demonstrate reasonable efforts to comply with his EP. The panel therefore finds that the ministry decision that the appellant was not eligible for income assistance under section 9 of the EAA was a reasonable application of the evidence and confirms the ministry decision.