

PART C – Decision under Appeal

The decision under appeal is the ministry's Reconsideration Decision dated December 21, 2011 whereby the appellant was found to be ineligible for income assistance pursuant to Section 9 of the Employment and Assistance Act (EAA) for not complying with the conditions of his Employment Plan (EP), due to his failure to make reasonable efforts to participate in an employment-related program and with no medical reason for his non-participation.

PART D – Relevant Legislation

Employment and Assistance Act (EAA), Section 9

PART E – Summary of Facts

The evidence before the ministry at the time of the reconsideration decision consisted of:

- 1) Employment Plan (EP) signed by the appellant dated March 14, 2011. The terms of the EP include provisions requiring the appellant to: advise the ministry of any changes and updates as they occur, including employment, absences, training approval, etc.; submit a job search attached to his stub by the 5th of each month; do a minimum search of 5 searches per day; return to the ministry if unable to comply with this EP, for a new EP more suited to his needs;
- 2) Handwritten notes made on a Job Search and Resume Distribution Form for:
 - March 24, 2011 (10 entries),
 - March 26, 2011 (5 entries),
 - March 27, 2011 (5 entries)
 - March 28, 2011 (5 entries),
 - undated (9 entries);
- 3) Handwritten notes made on lined pages for:
 - April 1, 2011 (5 entries),
 - May 2, 2011 (5 entries),
 - June 2, 2011 (5 entries),
 - July 2, 2011 (5 entries),
 - August 2, 2011 (5 entries),
 - September 3, 2011 (5 entries),
 - October 1, 2011 (5 entries),
 - November 4, 2011 (5 entries),
 - December 1, 2011 (5 entries);
- 4) Letter from the appellant dated December 8, 2011 enclosing his job search activity since March 2011; and,
- 5) Request for Reconsideration- Reasons.

The appellant did not attend the hearing. After confirming that the appellant was notified, the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation.

In his Request for Reconsideration, the appellant states that on March 14, 2011 he got on the EP and was told to do a minimum of 5 job searches by the 5th of the month, April 5, 2011. The appellant states that he forgot to hand it in and "now about a week or two", his ex ripped up his employment papers and threw them in the dumpster. The appellant states that he explained this to the ministry numerous times and nothing was done to help. The appellant states that he did not know until a couple of weeks ago that he can use lined paper for his job searches. The appellant states that months have passed with the ministry office getting changed then changed again, that he has explained his situation but his words were twisted around. The appellant states that he has done his work and has provided his job search activities since March 2011.

The ministry's evidence included that the appellant is currently receiving income assistance as a single, employable person and that he signed an Employment Plan (EP) on March 14, 2011 agreeing to the conditions as set out. The terms of the EP included provisions requiring the appellant to: advise the ministry of any changes and updates as they occur, including employment, absences, training approval, etc.; submit a job search attached to his stub by the 5th of each month; do a minimum search of 5 searches per day; return to the ministry if unable to comply with this EP, for a new EP more suited to his needs. The ministry stated that when the appellant signed his EP the ministry reviewed with the appellant that if he did not fully comply with the conditions of his EP, he would be found ineligible for income assistance. On March 23, 2011, the appellant contacted the ministry to discuss the conditions of his EP since he was concentrating on finding stable housing and had some time commitments related to meeting with his probation officer. It was agreed that, on a temporary basis, the required number of job searches could be reduced from 5 to 2. In response to a question, the ministry admitted that when there has been a change in a condition of the EP, it will usually have

APPEAL #

the client sign an updated EP with the new condition set out, but the ministry points out that in this case it was attempting to accommodate the appellant by reducing this requirement. On December 2, 2011, the appellant attended at the ministry office and it was determined that the appellant had not submitted any job searches and he had not advised the ministry of any reasons for not complying with his EP. The appellant stated that he completed the job searches for the first month but then lost the documents and from then on did not continue with the job searches because he had other obligations that interfered with his job searches. The appellant was advised that he was non-compliant with the conditions of his EP.

PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry reasonably concluded that the appellant did not comply with the conditions of his EP and that, therefore, the appellant is not eligible for income assistance pursuant to Section 9 of the Employment and Assistance Act (EAA).

Section 9(1) of the EAA provides that, when the ministry requires, a person must enter into an EP and comply with the conditions in the EP in order to be eligible for income assistance. Under Section 9(3) of the EAA, the ministry has the authority to specify conditions in an EP. Section 9(6) provides that the ministry may amend, suspend or cancel an EP.

The ministry's position is that the appellant entered into an EP dated March 14, 2011, agreeing to the conditions as set out. The ministry points out that the terms of the EP included provisions requiring the appellant to: advise the ministry of any changes and updates as they occur, including employment, absences, training approval, etc.; submit a job search attached to his stub by the 5th of each month; do a minimum search of 5 searches per day; return to the ministry if unable to comply with this EP, for a new EP more suited to his needs. The ministry points out that when the appellant signed his EP the ministry reviewed with the appellant that if he did not comply with the conditions in his EP, he would be found ineligible for income assistance. The ministry argues that from the time that the appellant signed his EP to December 2, 2011 he did not submit the job searches attached to his stubs, as required, and after March 23, 2011 he did not contact the ministry to advise of problems with submitting the reduced number of 2 job searches per day. The ministry points out that the job search entries provided by the appellant are not consistent with his statement that his ex ripped up his job searches and that he did not know until two weeks ago that he could use lined paper to track his job search activities. The ministry points out that since the appellant did not submit the job search activities on a monthly basis, as required, the ministry is unable to assess the validity of the documents. The ministry argues that the appellant did not meet the requirement in his EP of submitting either a minimum of 5 work search activities per day or the temporarily reduced requirement of a minimum of 2 work searches per day.

The appellant acknowledges that he got on the EP in March 2011 and that he was told to do a minimum of 5 job searches by the 5th of the month, or by April 5, 2011. The appellant argues that he completed the searches but he forgot to hand it in. The appellant also argues that his ex ripped up his employment papers and threw them in the dumpster. The appellant points out that he explained this to the ministry numerous times and nothing was done to help. The appellant argues that he did not know until a couple of weeks ago that he can use lined paper for his job searches. The appellant argues that he has done his work and has provided his job search activities since March 2011.

The panel finds that the EP signed by the appellant dated March 14, 2011 requires the appellant to advise the ministry of any changes and updates as they occur, submit a job search attached to his stub by the 5th of each month, do a minimum search of 5 searches per day, and return to the ministry if unable to comply with the EP, for a new EP more suited to his needs. The panel finds that the appellant did return to the ministry on March 23, 2011 to explain that due to the time required to find stable housing and to meet with his probation officer, he was unable to comply with a requirement for 5 job searches per day, and the ministry agreed to temporarily reduce this requirement. Although the ministry states that the number of job search activities required was reduced to a minimum of 2 per day, the appellant has submitted job search documents with his Request for Reconsideration which reflect entries at the rate of a minimum of 5 job search activities per day for the month of March 2011, and then a minimum of 5 job search activities per month for the months of April through December 2011, and this may indicate a misunderstanding about the number of job search activities required for the temporarily reduced amount. As the ministry did not have the appellant sign a new EP to set out the amended number of job search activities required, it is difficult to establish, especially when the appellant claims that he has completed the required work.

However, the panel finds that it was not disputed that the EP required that the appellant submit his job search activities by attaching the documentation to his stub by the 5th of each month and that, if there was a problem with meeting this or any other requirement, to return to the ministry for a new EP more suited to his needs. The appellant stated to the ministry on December 2, 2011 that he completed the job searches for the first month but then lost the documents and from then on did not continue with the job searches because he had other obligations that interfered with job search activities. In his Request for Reconsideration, the appellant states that he forgot to hand in the job searches for the first month and then his ex ripped up his employment papers and threw them in the dumpster. The appellant states that he did not know until a couple of weeks ago that he can use lined paper for his job searches, and he has submitted documents indicating searches at the rate of 5 activities per month for the period April through December 2011. The panel finds that the appellant completed his job search requirements of 5 searches per day for the month of March, 2011, but that he did not submit the document to the ministry by attaching it to his April 5, 2011 stub.

The panel finds that the evidence regarding the appellant's job search activities for the months of April through December 2011 is inconsistent, as the appellant has stated to the ministry both that he did not continue with the job searches after March 2011 and that he completed the job searches and has provided different explanations for why the documents confirming his job searches were not previously available. The appellant does not dispute, however, that he did not attach confirmation of his job search activities to his monthly stub, as required, and that he did not return to the ministry at any time over the period of 8 months to explain that these documents could not be provided, and to enter into a new EP more suited to his needs. The panel finds that the ministry reasonably determined that the appellant failed to comply with the conditions of his EP by failing to submit a job search attached to his stub. As there was no evidence provided by the appellant that he has a medical condition, the panel further finds that the ministry reasonably concluded that there is no evidence that a medical condition precluded the appellant from complying with his EP.

The Panel finds that the ministry decision was a reasonable application of the applicable enactment in the circumstances of the appellant and confirms the decision.