

**PART C – Decision under Appeal**

The decision being appealed is the Ministry's January 13, 2012 reconsideration decision denying the Appellant income assistance because he did not comply with the conditions in his employment plan and he did not demonstrate reasonable efforts to participate in the program or confirm medical reasons for not participating in the program as required by section 9 of the Employment and Assistance Act.

**PART D – Relevant Legislation**

Employment and Assistance Act (EAA) Section 9.

## PART E – Summary of Facts

The Appellant did not appear at the hearing. The Panel confirmed that the Appellant was notified of the hearing and then proceeded with the hearing pursuant to section 86(b) of the Employment and Assistance Regulation.

For its reconsideration decision the Ministry had the following evidence:

1. Employment plan signed by the Appellant on September 22, 2011 with conditions, including the requirement to attend an intake interview and other sessions with the contractor. The plan also stated that failure to comply with its conditions could result in discontinuance of income assistance.
2. Information from the Ministry's records as follows:
  - The Appellant was receiving regular income assistance and on September 22, 2011 he asked the Ministry for a referral to an employment program. The Ministry discussed his past non-compliance with him, as well as the consequences of future non-compliance, and also reviewed the conditions of the September 2011 employment plan including the required activities and the stipulation that failure to comply would result in the Appellant becoming ineligible for income assistance.
  - On October 11, 2011 the Ministry was notified that the Appellant did not attend the employment contractor's intake interview at 9 a.m. on October 4, 2011 and also that the contractor contacted the Appellant that day to advise him that they would still accept him if he came for an interview the same day. The Appellant told the contractor that he would be right down, but he did not attend. The Appellant also made no attempt to contact the contractor or the Ministry to advise them he could not attend as required, a condition in his employment plan.
  - A letter dated October 11, 2011 from the Ministry to the Appellant instructing him to contact the employment contractor by phone to schedule an interview and reminding him that non-attendance might impact his eligibility for income assistance.
  - On October 14, 2011 the employment contractor returned the Appellant's file to the Ministry as closed due to non-participation.
  - On October 27, 2011 the Appellant went to the Ministry's office and said he did not go to his appointments because he forgot.
  - The Ministry denied the Appellant's request for continued income assistance on October 28, 2011 because of non-compliance with his employment plan.
3. Appellant's request for reconsideration in which he wrote that he needs assistance, he is broke, about to be homeless, and he is starving and needs some food.

In the Appellant's notice of appeal dated February 9, 2012 he wrote that he is 2 months behind in rent and owes so much money that he does not know what to do. He wrote that his back is broken, he cannot work, and he needs money to live. The Panel finds that the Appellant's statements in this document relate to his reasons for not complying with his employment plan and therefore the Panel admits these statements as being in support of the evidence that was before the Ministry when it made its reconsideration decision pursuant to section 22(4) of the EAA.

Because the Appellant did not appear at the hearing the Panel will consider the statements in his notice of appeal to be his position for this appeal.

At the hearing the Ministry reviewed the information it had about its contacts with the Appellant as set

out in its reconsideration decision and the Ministry emphasized that it was the Appellant who requested the referral to the employment contractor and initiated this employment plan. The Ministry also submitted that the Appellant was fully aware of the consequences of non-compliance and he provided no information about any mitigating circumstance which would have prevented him from attending.

The Panel makes the following findings of fact:

1. The Appellant signed an employment plan requiring him to attend scheduled sessions with the employment contractor.
2. The Appellant did not attend a scheduled intake interview or a rescheduled interview.
3. The Appellant did not contact the employment contractor or the Ministry to advise them that he would not be attending either intake interview.
4. The Appellant provided no medical confirmation about any medical conditions he had.

## PART F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry reasonably denied the Appellant income assistance because he did not comply with the conditions in his employment plan and he did not demonstrate reasonable efforts to participate in the program or confirm medical reasons for not participating in the program as required by section 9 of the EAA.

The following parts of section 9 of the EAA apply to this appeal:

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.

9(3) The minister may specify the conditions in an employment plan including: without limitation, a condition requiring the application, recipient or dependent youth to participate in a specific employment-related program that, in the minister's opinion, will assist the applicant, recipient or a dependent youth to (a) find employment, or (b) become employable.

9(4) If an employment plan includes a condition requiring an applicant, or recipient or 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.

The Ministry's position is that it was the Appellant who requested the employment plan and the referral to an employment contractor. The Ministry noted that it reviewed the conditions in the plan with the Appellant, as well as the consequences of not complying with the plan and his past non-compliance. The Ministry also noted that the Appellant failed to attend a required interview twice and he did not contact the contractor or the Ministry to advise that he would not attend. Based on the information it had the Ministry determined that the Appellant did not provide any mitigating reasons for not attending the interview as required, that the Appellant did not establish that he demonstrated reasonable efforts to comply with the conditions of his employment plan, and the Appellant did not provide information about a confirmed medical condition that prevented him from participating in his plan. Therefore the Ministry determined that because the Appellant did not comply with his employment plan he was no longer eligible for income assistance under section 9 of the EAA.

The Appellant's position is that his back is broken and he cannot work. He also is behind on rent and owes so much money he doesn't know what to do.

The Panel finds that the Appellant failed to attend scheduled employment contractor interviews, even after being given a second opportunity. Also the Appellant failed to contact the contractor and the Ministry that he was not going to attend either appointment. The Panel also finds that there is no evidence about a confirmed medical condition preventing the Appellant from participating in his plan, only his statement about his back. Therefore, the Panel finds that, based on the evidence, the Ministry reasonably determined that the Appellant did not demonstrate reasonable efforts to participate in his employment plan, did not provide medical reasons for not participating and that therefore he was no longer eligible for income assistance under section 9 of the EAA.

The Panel finds, based on the whole of the evidence, that the Ministry's reconsideration decision was reasonably supported by the evidence and was a reasonable application of the applicable enactments in the Appellant's circumstances. The Panel therefore confirms that decision.