

PART C – Decision under Appeal

The appellant appeals the ministry's reconsideration decision of February 9, 2012 in which the ministry determined that the appellant was not eligible for income assistance as a result of his non-compliance with the terms and conditions of an employment plan required by section 9 of the *Employment and Assistance Act*.

PART D – Relevant Legislation

Employment and Assistance Act, section 9 ("EAA").

PART E – Summary of Facts

The evidence before the ministry at the reconsideration was an employment plan signed and dated by the appellant on December 8, 2011, and the appellant's request for reconsideration with his handwritten submission dated January 30, 2012.

As stated in the reconsideration decision, the appellant's income assistance file was re-opened at the ministry on March 9, 2011. The appellant is a single recipient with a time limit count of 18 months. On December 8, 2011, the appellant entered into an employment plan ("EP") for a two-year term from December 8, 2011 through December 7, 2013. The section on the first page of the EP, "A note about your employment plan", states: "It is important that you follow through with the conditions of the EP. If you are unable to follow through please advise the ministry. If you fail to comply with your EP you will be ineligible for assistance."

In the list of "required activities", the EP requires that the appellant:

- Participate in employment programming with the contractor specified by the ministry;
- Fully participate as directed by the contractor and advise the contractor any time the appellant was unable to attend;
- Meet with the contractor on December 15, 2011 to be assessed for employment services; and
- Beginning in April 2012, participate in the new employment program of BC, to which the appellant will be directed prior to April 2012 by the current contractor or the ministry.

The appellant's required activities listed in the EP include the following statement, "I understand that my participation in these programs is mandatory to be eligible for income assistance." The appellant's EP also contains the following acknowledgement:

I acknowledge that it is a condition of eligibility that I sign this employment plan and that I comply with the conditions set out in this plan, including any condition to participate in a specific employment-related program. ...

I further acknowledge and understand that, if the ministry refers me to a specific employment-related program, I will participate fully and to the best of my ability in the activities required by the ministry contractor. ...

As stated in the reconsideration decision, on December 22, 2011, the appellant attended the intake assessment appointment with the contractor as required by the EP. The reconsideration decision states that on January 18, 2012, the appellant's file was returned to the ministry for the reason that the appellant was "not participating in ISS services" because the appellant "had not attended any scheduled services at [the contractor] since [the date of the intake assessment]." The ministry representative confirmed that the contractor returned the appellant's file to the ministry as he had no further contact with the contractor after the intake assessment meeting on December 22, 2011.

In the reconsideration decision, the ministry's evidence is:

You advised the ministry office that you had the flu and did not want anyone to catch it so did not attend [the contractor]. However, when asked to provide confirmation of this you could not do so. You then advised the ministry that you had been mugged and beaten up but when asked to provide [a police] file number you said you could not. In addition, you advised that you had contacted [the contractor] but the ministry received confirmation that you had not done so since your intake appointment. In addition, the ministry does not have any confirmation on your file if you have other medical conditions.

In his submissions on request for reconsideration, the appellant wrote, "I am still in need of assistance for a few more months just so I can look for work here or up north. I am willing to do anything for my employment plan. I also want to work towards getting my H2S certificate and my photo I.D. My roommate is trying to get her kid back and I need this house so she can get him back." The appellant did not make any submissions in his notice of appeal.

The panel makes the following findings of fact:

- The appellant agreed to the EP which required him to attend a specific employment-related program with the contractor.
- The appellant attended the EP required intake assessment with the contractor on December 22, 2011.
- The appellant had no further contact with the contractor as required by the EP.

PART F – Reasons for Panel Decision

The issue on this appeal is the reasonableness of the ministry's reconsideration decision of February 9, 2012, denying the appellant income assistance for non-compliance with an employment plan, as required by section 9 of the *Employment and Assistance Act* ("EAA").

Section 9(1) of the EAA states that in order for a family unit to be eligible for income assistance, each applicant, when required to do so by the minister, must (a) enter into an employment plan, and (b) comply with the conditions of the employment plan. Subsection 9(3) provides that the minister may specify the conditions in an employment plan including, without limitation, participation in a specific employment-related program that will assist the applicant in finding employment or becoming more employable. Subsection 9(4) of the EAA also requires that if an employment plan includes a condition requiring an applicant 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 appellant did not attend the hearing. The panel received confirmation from the Tribunal that the appellant had been notified of the date, time and location of the hearing. Accordingly, under s. 86(b) of the *Employment Assistance Regulation*, the panel heard the appeal in the appellant's absence.

The ministry's position is that the denial of income assistance was reasonable. The ministry says that the appellant entered into and signed an employment plan on December 8, 2011 and agreed to the conditions in the employment plan, which included attending at the contractor's office as required, and that he knew he was obliged to comply with the conditions of the employment plan in order to receive income assistance. The ministry says that the appellant failed to comply with the terms of the employment plan by failing to contact the contractor or make appointments with the contractor as required by the employment plan. The ministry argues that the appellant's submissions on reconsideration do not address his failure to comply with the terms and conditions of the employment plan. The ministry's evidence is that the appellant failed to make any further contact with the contractor after the assessment intake appointment on December 22, 2011. The ministry submits that the appellant did not make reasonable efforts to comply with the employment plan program and that there is no evidence the appellant ceased to participate in the program for medical reasons.

The appellant did not provide submissions on appeal. The appellant's position as stated in his request for reconsideration is that he needs assistance for a few more months so he can look for work, obtain an H2S certification and photo ID.

The appellant was aware of the terms and conditions of his employment plan, including that he was required to contact the contractor, attend appointments with the contractor, and complete all tasks assigned to him by the contractor. The appellant did not provide any explanation as to why he did not contact the contractor after the intake assessment on December 22, 2011 and the panel finds that there is no evidence that the appellant ceased to participate in the employment plan for medical reasons. The panel finds further that there is no evidence that the appellant made reasonable efforts to comply with the requirements of the employment plan. The panel finds that the ministry's decision to deny the appellant income assistance for failing to comply with the terms of the employment plan as per section 9 of the EAA is reasonably supported by the evidence. The panel confirms the reconsideration decision.