

## PART C – Decision under Appeal

The decision under appeal is the Reconsideration Decision of the Ministry of Social Development ("Ministry"), dated October 18, 2012, which denied the Appellant income assistance ("IA") for two calendar months, as the Ministry determined that the Appellant left her employment without just cause contrary to sections 13(1)(a)(ii) and 13(2)(b) of the Employment and Assistance Act.

## PART D – Relevant Legislation

Employment and Assistance Act (the "EAA"), s. 13, 22, 24

Employment and Assistance Regulation (the "EAR"), s. 29

## PART E – Summary of Facts

This was a written hearing.

Information provided to the Panel indicated that there would be no submission provided by the Ministry, as it was relying solely on its Reconsideration Decision dated October 18, 2012. ("RD")

The Appellant did not provide any written submissions to support her Notice of Appeal dated October 24, 2012.

Prior to the hearing, the Appellant submitted the following additional document:

- Appellant's Request for Reconsideration (4 pages) dated October 24, 2012 ("RR2"), which sets out the initial denial by the Ministry for non-compliance, (Section 1 & 2) and the Appellant's reasons for requesting reconsideration (Section 3).

The Panel notes that although RR2 is a request for reconsideration form, it was completed by the Appellant after the Ministry released its RD and thus is treated as new evidence.

The Panel received no information from the Ministry that it had any objection to the appellant submitting the additional documentation.

The Panel determined that RR2 was admissible under s. 22(4)(b) of the EAA -- as written testimony in support of the information and records before the minister at reconsideration.

The evidence before the Ministry at reconsideration was:

- Appellant's Request for Reconsideration (4 pages) dated October 4, 2012 ("RR"), which sets out the initial denial by the Ministry for non-compliance, (Section 1 & 2) and the Appellant's reasons for requesting reconsideration (Section 3)
- Repayment Agreement Appeal Benefit signed by Appellant and dated October 5, 2012 (1 page).

The evidence of the Appellant in the RR in section 3 at page 3 of 4 was that:

- She quit her job for just cause due to work place problems, namely:
  - She worked 4 hours solo with no other staff member to assist with emergencies,
  - The air conditioning was broken and she was alone with a mysterious puddle on the floor,
  - There was no occupational first aid attendant on site,
- She is currently writing and believes that to constitute working; however it does not provide her with any income.

The evidence of the Appellant in the RR2 in section 3 at page 3 of 4 was similar to that in RR, namely that:

- She was working at a job writing that was not earning a wage.
- Her workplace was unsafe as she worked solo, had no support staff, no occupational first aid and a broken air conditioner in the ceiling and a massive puddle on the floor.
- She was not happy about her wage because she felt that the workplace was unsafe.

The evidence of the Appellant in her Notice of Appeal was that:

- She quit her place of employment for the following reasons:
  - She did not trust that her safety was priority at her workplace;
  - She believed that her work place was unsafe because:
    - she worked on her own for four hours
    - there was no occupational first aid attendant present; and
    - Worked in the presence of a broken air conditioning machine in the ceiling of the store
- She has been working by way of writing and which does not earn her a wage.

The evidence contained in the RD was that:

- The Appellant submitted monthly stub with record of employment attached ("ROE"); the ROE was issued under code "E", which code is used for quitting a job.
- The Ministry contacted the assistant manager of the place of employment who confirmed that Work Safe BC had inspected the workplace due to the Appellant's reports and work place was deemed a safe environment.

- The Appellant has provided no further information to establish just cause.

The Panel finds that:

- It was not disputed that the Appellant quit her job in September, 2012.
- Work Safe BC attended at the Appellant's work site in response to complaint filed by Appellant.

## PART F – Reasons for Panel Decision

The issue to be decided in this case is the reasonableness of the Ministry's reconsideration decision to deny the Appellant's request to receive IA for the months of October and November, 2012, which the Ministry had determined she was not eligible to receive.

Section 13 of the EAA provides that a family unit that does not include dependent children is not eligible for IA for a prescribed period if they quit employment without just cause.

Section 29 of the EAR sets out the prescribed period of ineligibility.

The relevant statutory provisions to be considered in this appeal are set out below:

### Consequences of not meeting employment-related obligations

- 13** (1) Subject to the conditions of an employment plan, the family unit of an applicant or a recipient is subject to the consequence described in subsection (2) for a family unit matching the applicant's or recipient's family unit if
- (a) at any time while a recipient in the family unit is receiving income assistance or hardship assistance or within 60 days before an applicant in the family unit applies for income assistance, the applicant or recipient has
    - (i) failed to accept suitable employment,
    - (ii) voluntarily left employment without just cause, or
    - (iii) been dismissed from employment for just cause, or
  - (b) at any time while a recipient in the family unit is receiving income assistance or hardship assistance, the recipient fails to demonstrate reasonable efforts to search for employment.
- (2) For the purposes of subsection (1),
- (a) if a family unit includes dependent children, the income assistance or hardship assistance provided to or for the family unit must be reduced by the prescribed amount for the prescribed period, and
  - (b) if a family unit does not include dependent children, the family unit is not eligible for income assistance for the prescribed period.
- (3) The Lieutenant Governor in Council may specify by regulation categories of applicants or recipients to whose family units this section does not apply.

### Consequences of failing to meet employment-related obligations

- 29** (1) For the purposes of section 13 (2) (a) [*consequences of not meeting employment-related obligations*] of the Act,
- (a) for a default referred to in section 13 (1) (a) of the Act, the income assistance or hardship assistance provided to or for the family unit must be reduced by \$100 for each of 2 calendar months starting from the later of the following dates:
    - (i) the date of the applicant's submission of the application for income assistance (part 2) form under this regulation;
    - (ii) the date the default occurred, and
  - (b) for a default referred to in section 13 (1) (b) of the Act, the income assistance or hardship assistance provided to or for the family unit must be reduced by \$100 for each calendar month until the later of the following occurs:
    - (i) the income assistance or hardship assistance provided to the family unit has been reduced for one calendar month;
    - (ii) the minister is satisfied that the applicant or recipient who committed the default is demonstrating reasonable efforts to search for employment.
- (2) The reduction under subsection (1) applies in respect of each applicant or recipient in a family unit who does anything prohibited under section 13 (1) [*consequences of not meeting employment-related obligations*] of the Act.
- (3) For the purposes of section 13 (2) (b) [*consequences of not meeting employment-related obligations*] of the Act, the period of ineligibility for income assistance lasts
- (a) for a default referred to in section 13 (1) (a) of the Act, until 2 calendar months have elapsed from the later of the following dates:
    - (i) the date of the applicant's submission of the application for income assistance (part 2) form under this regulation;
    - (ii) the date the default occurred, and
  - (b) for a default referred to in section 13 (1) (b) of the Act, until the later of the following has occurred:
    - (i) the family unit has been ineligible for income assistance for one calendar month;
    - (ii) the minister is satisfied that the applicant or recipient who committed the default is demonstrating reasonable efforts to search for employment.

- (4) Section 13 [consequences of not meeting employment-related obligations] of the Act does not apply to a family unit of an applicant or recipient who is in any of the following categories:
- (a) Repealed. [B.C. Reg. 116/2003, Sch. 1, s. 2 (a).]
  - (b) sole applicants or sole recipients who have at least one dependent child who
    - (i) has not reached 3 years of age, or
    - (ii) has a physical or mental condition that, in the minister's opinion, precludes the sole applicant or recipient from leaving home for the purposes of employment;
  - (c) Repealed. [B.C. Reg. 48/2010, Sch. 1, s. 1 (b).]
  - (d) sole applicants or sole recipients who have a foster child who
    - (i) has not reached 3 years of age, or
    - (ii) has a physical or mental condition that, in the minister's opinion, precludes the sole applicant or recipient from leaving home for the purposes of employment;
  - (e) persons who receive accommodation and care in a special care facility or private hospital;
  - (f) applicants or recipients admitted to hospital because they require extended care;
  - (g) persons who reside with and care for a spouse who has a physical or mental condition that, in the minister's opinion, precludes the person from leaving home for the purposes of employment;
  - (h) applicants or recipients in a family unit that includes only applicants or recipients who are
    - (i) Repealed. [B.C. Reg. 160/2004, s. 2.]
    - (ii) persons who are participating in a treatment or rehabilitation program approved by the minister, if their participation in that program, in the minister's opinion, interferes with their ability to search for, accept or continue in employment,
    - (iii) persons who have separated from an abusive spouse or relative within the previous 6 months, if, in the minister's opinion, the abuse or the separation interferes with their ability to search for, accept or continue in employment,
    - (iv) persons not described in section 7 (2) [citizenship requirements];
    - (v) persons who have persistent multiple barriers to employment; or
    - (vi) persons who have reached 65 years of age;
  - (i) Repealed. [B.C. Reg. 48/2010, Sch. 1, s. 1 (b).]
  - (j) sole applicants or sole recipients who are providing care under an agreement referred to in section 8 [agreements with child's kin and others] of the *Child, Family and Community Service Act* for a child who
    - (i) has not reached 3 years of age, or
    - (ii) has a physical or mental condition that, in the minister's opinion, precludes the sole applicant or recipient from leaving home for the purposes of employment;
  - (k) sole applicants or sole recipients who are providing care under an agreement referred to in section 93 (1) (g) (ii) [other powers and duties of directors] of the *Child, Family and Community Service Act* for a child who
    - (i) has not reached 3 years of age, or
    - (ii) has a physical or mental condition that, in the minister's opinion, precludes the sole applicant or recipient from leaving home for the purposes of employment.

The parties concluded that the Appellant quit her job. The appellant first argues that she left her job for just cause and thus section 13(1)(a)(ii) is not operable in her circumstance. The Appellant argues that there were numerous problems at her work site which when taken together constitute an unsafe work site and thus just cause for leaving her employment.

The Ministry argues that there is no evidence that the work site was unsafe and thus there was no cause for her to quit her job. The Panel finds that although the Appellant's work-site safety concerns were taken seriously as evidenced by the fact that an inspector from Work Safe BC was dispatched to investigate the site, no evidence of the site being unsafe was ever established and thus no element of just cause could be recognized. The Panel further finds that the Appellant has voluntarily left her employment without just cause in accordance with section 13(1)(a)(ii) and thus she is not eligible for IA for the prescribed period of two calendar months, namely October and November, 2012. Accordingly the Panel finds the Ministry's decision was reasonably supported by the evidence.

The Appellant further attempts to argue that her writing constitutes working for the purposes of meeting her employment-related obligations under the EAA. The Ministry does not address this argument specifically in its RD. The Panel finds there to be no evidence provided by the Appellant to advance this argument.

In conclusion, the Panel finds that the Ministry's reconsideration decision was reasonably supported by the evidence and confirms the Ministry's decision.