

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision dated February 4, 2013 in which the ministry denied income assistance to the appellant, pursuant to section 9 of the Employment and Assistance Act (EAA), for failing to comply with the conditions of her employment plan because of her failure to make a reasonable effort in her search for work.

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 was:

- An employment plan (EP) dated September 10, 2012 and signed by the appellant October 24, 2012. The agreement required the appellant to conduct a supervised independent work search. The plan required the appellant to update and distribute her resume to potential employers, seek and pursue employment opportunities, record her monthly work searches and provide the reports to the ministry on request, and devote a minimum of 25 hours per week on her work search efforts.
- A letter from the ministry addressed to the appellant dated December 7, 2012. The letter reads that the appellant must attend the ministry office and provide her work search details and review her employment plan in order to receive her assistance cheque for December 19, 2012
- A letter from the ministry addressed to the appellant dated January 15, 2013. The letter reads that the appellant must attend the ministry office and provide her work search details and review her employment plan in order to receive her assistance cheque for Jan 23, 2013
- A letter from the ministry addressed to the appellant dated January 21, 2013. The letter reads that the appellant is no longer eligible for income assistance because she has not met the requirements.
- A work search activity record form dated December 6, 2012 completed by the appellant. It shows 6 entries from November 20 through December 7, 2012. Four of the entries are for the appellant to attend a ministry service provider to learn work search skills, one entry is for her to prepare her resume at the library, and the last entry is for her to complete her food safe certificate.
- A work search activity record form dated January 14, 2013 completed by the appellant. It shows 19 entries from January 2 through January 14, 2013. Ten of the entries are job applications, 5 entries are for administrative functions (photocopying, fix resume, cover letter), and 4 entries are for "injured hand."
- A letter written by the appellant dated January 28, 2013. In the letter the appellant explains why she has been unable to meet the expectations of the employment plan. She writes that most jobs require a grade 12 education however she left school in grade 10, she finds it hard to do 100 work search activities per month with no transportation, she has found it hard going back to school after 3 years at home with her son, on January 19th she attended a funeral, and that since she was forced to leave her family and live in foster care as a child she finds it difficult to leave her son to go search for work.

At the hearing the appellant began by asking the panel for an adjournment. She stated that she had contacted an advocate earlier that morning but the advocate was unable to attend the hearing on short notice. The appellant also told the panel that her son was in the car with her mother but her mother did not have time to wait because she needed to get to work. The panel noted the ministry's position that the appellant had sufficient time to arrange an advocate and to plan for childcare. The panel considered the appellant's request and the circumstances. The panel denied the appellant's request for an adjournment. The panel found that the appellant was notified of the availability of an advocate when she received her reconsideration decision. The panel considered the appellant's childcare need and found that the situation was not due to an unexpected change in her circumstances but rather lack of planning on the appellant's part. The panel told the appellant that her son was welcome to come into the hearing so her mother could get to work but she declined the offer

and said that she would proceed with the hearing.

At the hearing the appellant told the panel that without her grade 12 education she feels she does not have the qualifications for the jobs that are available. She said that she has been taking classes to complete her grade 12 certificate. These classes are part-time (2-3 hours per session, 3 days per week) and allow her to stay home and care for her son. The appellant told the panel that she did search for work as required by her employment plan but she acknowledged it was not enough to satisfy the conditions of the plan.

When asked by the panel she added that she discussed the difficulties she was having with the ministry. She approached the ministry to say that with her low level of education she did not meet the minimum requirements of the jobs that were available. The ministry told her to continue her search and that there were some employers in the area that would be willing to hire a person with her level of education.

At the hearing the ministry told the panel that the legislation requires a person to begin their work-search once their child turns three years old. The ministry added that once a person begins their work search any educational upgrading is expected to be done in their off-time and the search for employment will take priority. The ministry told the panel that the appellant was welcome meet with the ministry contractor to learn job search, however, her attendance was optional and not a requirement under her EP. The ministry referred to the Reasonable Work Search Activities Guidelines document that was given to the appellant and noted, among other requirements, that the ministry's expectation was that the appellant devote 25 hours per week to her work search, make 15 employer contacts per week, and utilize at least 5 different work search activities.

The ministry told the panel that the appellant was made aware of her obligations under the employment plan at the time she signed it. The appellant was sent two letters on Dec 7, 2012 and Jan 15, 2013 that directed her to attend the ministry office to receive her assistance cheque. The ministry maintains that on both occasions the appellant was reminded that she must meet the requirements of her employment plan in order to be eligible for further assistance. The ministry added that the employment plan allowed the appellant to conduct her job search over the internet or phone and her lack of transportation should not have been an obstacle to making contact with potential employers.

The ministry stated that there is no longer a selection of work related programs available for recipients receiving assistance. The appellant was made aware of the one ministry contractor available to assist her in work search and the appellant chose meet with them to improve her work search skills and resume.

The panel finds that:

- The appellant entered into an employment plan on October 24, 2012 that required the appellant to conduct a supervised independent work search.
- The appellant submitted a work search activity report on December 6th showing 6 work search activities from November 20, 2012 through December 7th 2012.
- The appellant submitted a work search activity report January 14th showing 14 entries from January 2 through January 14th 2013.

PART F – Reasons for Panel Decision

The issue under appeal in this case is the reasonableness of the ministry's decision to deny the appellant income assistance, pursuant to section 9 of the Employment and Assistance Act (EAA), for failing to comply with the conditions of her employment plan by not making a reasonable effort for her work search.

Section 9 of the Employment and Assistance Act states:

- 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 argument of the appellant is that she made a reasonable effort to comply with the requirements of her employment plan but the available jobs all require more education than she has. The appellant states that she is working towards completing her grade 12 diploma so she will be able to find work.

The argument of the ministry is that the appellant did not demonstrate a reasonable effort to comply with the requirements of her employment plan and she is therefore no longer eligible for assistance. The ministry argues that the appellant was made aware of her obligations under the employment plan at the signing of the plan and she was reminded of her obligations at least two other times when she attended the office to receive her cheque.

The panel acknowledges the appellant's argument that she found it difficult to meet her obligations of her employment plan because of her low level of education however as per EAA sec 9 (7), it is not within the panel's jurisdiction to consider the reasonableness of the conditions of an employment plan

set by the ministry. The panel finds that the ministry was reasonable to determine that the work search results submitted by the appellant do not qualify as a reasonable effort. The panel finds that the ministry was reasonable to determine that the appellant was made aware and understood the conditions of her employment plan. The panel finds that the ministry was reasonable to determine that the appellant's lack of a grade 12 diploma would not prevent her from making an effort to apply for jobs. The panel finds that the ministry was reasonable to find that the appellant's lack of transportation would not preclude her from making contact with employers since her employment plan allows her to conduct her work search over the internet or on the phone.

The panel finds that the ministry reasonably determined the appellant did not comply with the condition of her employment plan and ceased to be eligible for income assistance under EAA section 9(1).

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