

PART C – Decision under Appeal

The decision under appeal is the Ministry's Reconsideration decision dated February 18, 2013 wherein the Ministry denied the appellant's request for employment assistance pursuant to section 9(1) of the Employment and Assistance Act (EAA) for non compliance with the terms and conditions of her employment plan.

PART D – Relevant Legislation

Employment and Assistance Act Section 9

PART E – Summary of Facts

The appellant has been denied assistance. On January 22, 2013, the appellant was advised that she was not eligible for further income assistance due to non compliance with her employment plan obligations. On February 7, 2013 she submitted a request for reconsideration. The Ministry reconsidered the matter on February 18, 2013 and again denied the request. It is the reconsideration decision that is now under appeal.

The evidence before the Ministry included the reconsideration request which contained an employment plan and also two work search activities records.

The employment plan is dated July 11, 2012. At the top of page 1 it reads as follows:

“...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.”

Further down on page 1, it reads:

“...I am aware that the ministry expectation is that I spend 25 hours minimum per week on work search activities. I will submit my work search record by the 5th of every month showing 5 activities/day, 5 days/week. I am aware I can contact the Employment Program of BC for self serve services to determine if their resources could assist me to achieve my work search goals. I understand that I can access services from the Work BC location closest to my residence located at”

With respect to the work search activities records, the first record is dated January 3, 2013 wherein the appellant lists eight, undated job search activities. The second record is dated January 14, 2013 wherein the appellant lists 12, undated online activities.

In her notice of appeal, the appellant says that she is still looking for work as she is required to do but she cannot afford to pay any rent without help from the ministry. She says as well that she is also looking into going back to school, and that she just needs a little help.

At the hearing, the appellant gave evidence that she has a very difficult time applying for jobs because she has no transportation available to her. More specifically, she says she lost her driver's license and therefore is unable to drive. Further, she says she does not have a bus pass nor will the ministry provide her with one. She does have access to a vehicle and in an attempt to find work, she took out that vehicle on two occasions despite not having a driver's license. Both times she was caught and charged for driving without a license. She says that she received a \$1500.00 fine for her first offence, and her second offence is before the courts later this week. She does not know what the outcome of that charge will be.

The appellant stated that she has no family around to help her with her job search. She indicated that she only has a few friends with vehicles who could help her, but it is difficult to request their assistance when she doesn't even have enough money to pay them for driving her around.

She indicated that she would like to go back to school so that she can upgrade her skills and training so that she can do more than just waitress and bartend. She said that she very much wants to get off of income assistance all together, and going back to school will help her to achieve that. She also said the impact of having to live, find work etc without a driver's license is creating a lot of stress for her and, in the circumstances, there is only so much she can do.

The appellant noted that she applied for additional jobs that she was not able to list on her activities record. She says that many of those job applications were online and she does not have a record of them all. The appellant said she went through her sent email folder and recovered as many job applications as she could find, and those are the entries she has listed on her activities record.

The panel has considered the new evidence submitted by the appellant and finds that it is admissible under section 22(4) of the Employment and Assistance Act as it is evidence in support of the information and records that were before the Ministry when the reconsideration decision was made.

The ministry's evidence is that the employment plan clearly specified the job search requirements, and that the appellant clearly failed to meet those requirements. Further, the ministry said that between July 11, 2012 and November 30, 2012, the appellant did not relate her concerns to them regarding lack of bus pass etc.. The ministry notes that the appellant did not even contact them in that time period.

PART F – Reasons for Panel Decision

The issue on this appeal is whether the Ministry reasonably concluded that the appellant is ineligible for income assistance due to non compliance with the terms of her employment plan.

The following legislation applies to this decision:

Employment and Assistance Act:**Employment plan**

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 appellant signed an employment plan on July 11, 2012. At the top of page 1, the employment plan reads as follows:

“...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.”

Further down on page 1, it reads:

“...I am aware that the ministry expectation is that I spend 25 hours minimum per week on work search activities. I will submit my work search record by the 5th of every month showing 5 activities/day, 5 days/week. I am aware I can contact the Employment Program of BC for self serve services to determine if their resources could assist me to achieve my work search goals. I understand that I can access services from the Work BC location closest to my residence located at”

On November 30, 2012 the ministry conducted an employment plan review and noted that the appellant failed to submit any work search activities since signing her employment plan on July 11, 2012. The ministry contacted the appellant and requested that she contact them.

The appellant contacted the ministry on December 14, 2012, and submitted her first employment activities record on January 3, 2013. That record had only eight entries. On January 14, 2013 the appellant submitted a second activities record. That record had only twelve more entries. In total, between July 11, 2012 and January 14, 2013 the appellant submitted 20 work entries. The appellant, however, was required to submit 25 work entries per week as per the conditions of her employment plan. That requirement was far from met.

The appellant says that she was unable to provide further work search information because she does not have driver's license and she has been refused a bus pass, and that has impeded her work search abilities. However, the evidence is undisputed that the appellant did not even contact the ministry between July 11, 2012 and December 14, 2012. Further, the employment plan clearly sets out that the appellant can contact the Employment Program of BC for self serve services and/or could access the Work BC location closest to her home if she needed assistance with her work search requirements.

The panel finds that the employment plan is clear that failure to comply with the terms will result in ineligibility of assistance. Therefore, in considering all of the evidence, and after applying the

legislation to the facts of this case, the panel further finds that the Ministry reasonably concluded that the appellant is not eligible for further income assistance due to non compliance with the terms of her employment plan. Specifically, the appellant far from met her work search requirement of spending 25 hours minimum per week on work search activities, nor did she submit her work search record by the 5th of every month showing 5 activities/day, 5 days/week.

Accordingly, the panel finds that the Ministry's decision was a reasonable application of the legislation and confirms the decision pursuant to section 24(1)(a) and (b) and 24(2)(a) of the Employment and Assistance Act.