

PART C – Decision under Appeal

The Decision under Appeal is the Ministry's Reconsideration Decision, dated March 15, 2013, which denied the Appellant Income Assistance (IA), as the Ministry determined the Appellant was non-compliant with the conditions of her employment plan, (EP), contrary to Sec. 9(1)(b) of the Employment Assistance Act.

PART D – Relevant Legislation

EAA Employment and Assistance Act – Section 9

PART E – Summary of Facts

The material before the ministry showed that the Appellant was a single employable recipient of IA with no dependants. On May 8, 2012 she signed an EP, acknowledging she understood and agreed to participate in a supervised independent work search. She was required to update and distribute her resume and pursue available resources and employment opportunities. She was expected to spend a minimum of 25 hours per week on these activities, she was to record her monthly work search activities on a ministry form and provide the record to the ministry upon request.

On Sept. 20, 2012, an EP review of her file showed no activity records had been provided to the ministry. A signal was placed on her cheque to review the EP and she called the ministry Sept. 27 to advise she had been actively seeking work and would provide confirmation. She also stated she did not understand the EP expectations and the worker reviewed the expectations and compliance with her. On Oct. 22 Work Search Activities Record (#2) was provided and a worker determined it did not meet the EP expectations. Another signal was set to discuss with the appellant. On Oct. 24 the appellant called the ministry and a worker explained the EP expectations which included 5 contacts per day, 5 days per week and to provide full details of all activities completed. On Nov. 26 she submitted Work Search Activities Record (#3) for activities from Oct. 11 to Nov 2. The original ministry decision of March 5, 2013, states that on Jan. 8, 2013 an EP review was completed and showed she had failed to submit an activities record since Oct. 22, (sic). Another signal was placed on her file and she was required to submit her activities record to determine further eligibility of IA. On Jan. 8 the Appellant phoned the ministry to request the WORKBC phone number and address to attend the local office for resume assistance. The appellant also attended the office where a worker discussed her non-compliance and the appellant advised she was seeking employment and could not remember if she submitted her Dec. work search. On Jan. 28 she submitted her Work Search Activities Record (#4) for Dec. On Mar. 1 an EP review was conducted and there were no records for Jan. or Feb. The ministry determined that EP expectations had been discussed on numerous occasions and that that she had failed to follow through with EP expectations resulting in her no longer being eligible for IA.

On Mar. 6 the Appellant requested reconsideration. She wrote it had been a very rough year as she never expected at her age for her marriage to fall apart and be on assistance. She agreed her paperwork was late but that she always handed it in. She was to start a three week course to assist in her career path to get some certifications to become more employable. Feb. was particularly tough as it was the one year anniversary of her marriage breakdown and her husband had now hired a lawyer to dissolve the marriage. On Mar. 7 the appellant submitted her Jan. activities record.

On Mar. 15 the reconsideration decision upheld the denial of IA for failing to comply with the EP. On the Notice of Appeal the appellant wrote that she was doing everything asked of her including a "back to work" course recommended by the ministry.

The Appellant did not attend at the hearing. After confirming that the Appellant was properly notified of the hearing, the matter proceeded under section 86(b) of the Employment and Assistance Regulation

At the hearing the ministry adopted the reconsideration decision and argued the appellant had been given a number of chances and still failed to comply with the plan. The ministry representative gave evidence that she was the supervisor responsible for the decision in this matter. She advised that when the file was reviewed in Sept., and no activities records had been provided, she ensured steps were taken to make sure the appellant was aware of the requirements of 5 contacts per day, 5 days per week and to provide full details of all activities completed by the 5th of each month. As the supervisor, she was concerned that the appellant understand these requirements as they were not specifically stated in the EP. When she reviewed the file again in March she noted that the appellant was still not following through and as such she was denied IA for failing to comply with the plan.

When asked by the panel, the ministry representative confirmed she was positive that the appellant had been told in Sept. that she had to provide the work activities by the 5th of each month. She also confirmed that if a client advises of any mitigating factors such as medical issues they are informed to bring in information confirming the problem, like a doctor's letter, and no such material was provided here.

The appellant in her notice of appeal argued that she had done everything required of her.

PART F – Reasons for Panel Decision

The issue to be determined is whether the Ministry reasonably denied the Appellant IA, after determining that the Appellant was non-compliant with the conditions of her EP, contrary to Sec. 9(1)(b) of the Employment Assistance Act.

The Legislation states the following;

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.

...

(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.

...

(6) The minister may amend, suspend or cancel an employment plan.

...

Under Sec 9(1), to be eligible for income assistance, each recipient, when required to do so by the minister, must enter into an employment plan, and comply with the conditions in the employment plan. The issue here is whether the Appellant was properly denied IA as being non-compliant with the conditions of her EP, contrary to Sec. 9(1)(b).

The Appellant argues she did everything asked of her. The ministry adopts the reconsideration decision and argues the appellant was given numerous chances and warnings but still did not comply with the EP.

On Mar. 15 the ministry rendered its reconsideration decision. The decision noted that the EP signed by the appellant states that it is important to follow the conditions of the plan and if one cannot follow the plan, they are to inform the ministry. It also notes that the appellant confirmed she read, understood and agreed to the conditions of the plan. The decision states that although it was not written in the plan, the appellant was required to submit her work search activities monthly. The decision noted the plan did state she was required to submit them upon request of the ministry. The decision found that on Sept. 27 the ministry clarified the expectation that the work activities record must be submitted by the 5th of each month that and on Oct. 24 the appellant was told she was to complete and record 5 activities per day, 5 days a week and submit the record on the 5th of each

month. The decision found that notwithstanding several opportunities to comply, the appellant failed to submit her activities record by the 5th of each month. Further, activities record for Feb. had not even been submitted by the time of the reconsideration decision. The ministry found that the appellant had not demonstrated reasonable efforts to comply with the conditions of the EP and that as she had no mitigating circumstances preventing her from complying with the conditions; she was not eligible for IA for non-compliance with her EP.

In relation to whether it was reasonable for the ministry to find the appellant was non-compliant with her EP, it is noted that on May 8, 2012 the Appellant signed the EP, acknowledging she understood and agreed to participate in a supervised independent work search. She was required to update and distribute her resume and pursue available resources and employment opportunities. She was expected to spend a minimum of 25 hours per week on these activities and she was to record her monthly work search activities on a ministry form and provide the record to the ministry upon request. In Sept. when her file was reviewed it was determined that she was not submitting the records. The expectations were reviewed with her and the panel finds that the Appellant was advised that she was required to submit her work activities record by the 5th of each month. The original EP states the ministry was to be provided those documents upon request. By Oct., that request was for the information by the 5th of each month.

On Oct. 5th no records were provided and on Oct. 22 records were provided for Oct 1-10. No records were provided for Sept. The Oct. records were reviewed, found not to meet the EP's expectations and the appellant was again advised on Oct. 24 of the expectations. No records were provided on Nov. 5th and on Nov. 26 records were provided for Oct. 11 to Nov. 2. No records were provided on Dec. 5th, Jan 5th or Feb. 5th. On Jan. 8th a worker again discussed non-compliance with the appellant and 20 days later, on Jan. 28, records were submitted for Dec.3-28. On Mar. 1 when the supervisor reviewed the file there were no activity records for Jan. or Feb. On Mar. 6th, the Appellant wrote on her request for reconsideration that she acknowledged she was always late with the paperwork. This was the day after her Mar. 5th deadline for the Feb. records; still they were not provided. The panel finds that the Appellant was given numerous opportunities to ensure she understood and would follow the requirements of the EP. She continually failed to follow the requirements of the EP for which she signed, acknowledging understanding and compliance. Even when faced with a request for reconsideration on Mar. 6, she did not follow through and provide the records required. The panel finds that the Appellant did not follow through with the requirements of the EP.

The Appellant stated that Feb. was a very rough time for her as it was the one year anniversary of her marriage ending. As the ministry evidence set out, if a person has a mitigating circumstance they are asked to provide confirmation of this and they received nothing from the appellant, such as a doctor's letter. Without further evidence from the Appellant, who did not attend the hearing, explaining how this affected her and her abilities to comply with the EP, or some other evidence, such as a doctor's letter explaining this, the panel attaches little weight to this assertion. There is no evidence of any reasonable excuse by the Appellant for her non-compliance except a bald assertion. The panel finds there is no reasonable excuse for the continued repetitive failures to comply with the EP.

The panel finds that the decision by the ministry, that the Appellant was non-compliant with the conditions of her EP, contrary to sec. 9(1)(b) of the EAA, was reasonable based on all the available evidence and confirms the decision.