

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the "Ministry") reconsideration decision dated July 8, 2013 which held that the appellant was ineligible for June 2013 and July 2013 income assistance due to voluntarily leaving employment without just cause pursuant to section 13 of the Employment and Assistance Act ("EAA") and section 29 of the Employment and Assistance Regulation ("EAR").

PART D – Relevant Legislation

EAA, section 13
EAR, section 29

PART E – Summary of Facts

The evidence before the ministry at reconsideration was as follows:

1. Letter dated June 20, 2013 from the appellant to the ministry (the "Letter")

The appellant suggested that the Employment and Assistance Request for Reconsideration section 2 exhibited a number of discrepancies. The appellant listed the apparent discrepancies and provided a brief chronology of the events that he claims took place between the appellant and the ministry on May 28, 2013.

The appellant denied ever providing the ministry with information suggesting the appellant quit his employment as a result of ill-fitting safety glasses and a hard hat.

The appellant further suggested that there was contradictory information provided by the ministry regarding information provided by his supervisor – that being the appellant quit but that his supervisor did not mention the ill-fitting safety gear whereas the Human Resource person ("HR") indicated he did quit and quit on account of ill-fitting safety gear.

The appellant stated the ministry spoke to the Record of Employment ("ROE") contact person and the Human Resources representative (HR) of the company and not the appellant's supervisor. He noted his supervisor is a male and not a female as the ministry suggested.

The appellant also detailed his recollection of events that took place between himself and the ministry on May 28, 2013 and suggested that he confirmed with the ministry that he had found employment, but that he was no longer there as he "was injured on the job and couldn't do it anymore."

The appellant confirmed that at the same time he had provided the ministry with his ROE which indicated that the appellant had "quit." Upon learning that the appellant's ROE indicated he quit the ministry followed up with a telephone call to the representative of the company named on the ROE to confirm the details of the status which ultimately lead the ministry to speak with the Human Resource person ("HR") of the company who confirmed the details of the ROE.

The appellant understood from his conversation with the ministry that the HR representative informed the ministry that the appellant quit his employment because his hat and glasses did not fit properly. The appellant denied this was the reason for leaving and indicated that the ministry had not taken into consideration his injury.

The appellant provided further information suggesting that he did not get hired for the job he was required to do at the company and that he had no experience in this area and was not accustomed to lifting 50-100 pounds at a time and that this information was brought to his supervisors attention and he simultaneously requested a transfer. The appellant indicated that the supervisor never got back to him but the company ended up laying him off.

The appellant indicated that the heavy lifting was the "primary" reason for his injury.

2. Record of Employment dated May 1, 2013 coded "E" indicating that the appellant quit.
3. Statement of Earnings and Deductions showing a total of 16.50 hours.
4. File Notes of the ministry (the "Notes"):

In the Notes there are excerpts detailing a chronology of events beginning on April 25, 2013 and ending May 28, 2013.

The Notes indicate, among other things, that on May 28, 2013 the client attended the office of the ministry and provided the ministry his paystub and ROE. The paystub dated May 3rd was in the amount of \$230.49. The ministry noted that that the ROE was coded "E" indicating that the client had quit and indicated that he was "let go..after 2 days of work."

The ministry also noted that the appellant stated he was "let go due to shortage of work."

The ministry contacted the ROE contact person named on the ROE to question why the ROE stated that the appellant had quit. The ministry was transferred to another representative of the company (the "Representative") who confirmed that the appellant had in fact quit and informed the ministry that it was on account of ill-fitting safety glasses and hard hat. The Notes indicate that the Representative stated that the appellant did not show up after his second day of work.

In a third entry dated May 28, 2013, the Notes show that the appellant called the office of the ministry to inquire about the status of his cheque. The ministry explained that because the appellant had quit his employment he was not eligible for 60 days.

The appellant informed the ministry that he did not quit but that he injured himself and that he had asked for time off but "they" would not get back to him. The appellant stated that "they" laid him off.

The ministry explained that a call had been placed to the employer who stated that the appellant quit.

The ministry provided supplementary written submissions prior to the hearing:

1. Letter dated August 20, 2013 from the ministry to the Appeal Tribunal ("Ministry Submissions")

The Ministry Submissions confirmed the last day the appellant work was April 24, 2013.

The ministry additionally provided specific times the appellant attended and called the office that were not originally provided in the Notes. The ministry indicated that the appellant provided conflicting reasons for ending his employment and stated that the appellant did not provide evidence that would support an injury.

The appellant provided supplementary written submissions with his Notice of Appeal prior to the

hearing:

1. Letter dated July 18, 2013 from the appellant to the Appeal Tribunal ("Appellant Submissions")

The Appellant Submissions pointed out what he referred to as "inconsistencies and discrepancies" of the ministry's findings which were similar to those listed in the Letter.

In answer to a question previously posed by the ministry suggesting the appellant did not provide "any mitigating cause" as to the why the appellant left his employment, the appellant replied that the job he was hired for was no longer available and that the company offered him a position in a different department.

The appellant went into great detail on the events leading to his being hired by his employer and listed the many challenges he faced as a result. The appellant stated that his position was the graveyard shift which required him to spend a "small fortune" to insure his automobile.

In response to a statement made by the ministry in the Reconsideration Decision confirming that the appellant stated he asked to be transferred and then was let go, the appellant stated "I didn't just ask to be transferred; I was hired for a different production process..." and said that he was originally hired for a different position and that he "never should have accepted the position in the first place."

In response to a statement made by the ministry in the Reconsideration Decision confirming that the appellant originally stated he was let go on account of a shortage of work and later stated he was let go on account of an injury, the appellant replied "[n]ot exactly... I was not capable of working in the [original department he was hired for]". The appellant further stated that he was not "physically capable" of performing heavy lifting and that he does not have the "experience or expertise" for that type of work.

2. Email to the appellant from the HR dated April 5, 2013 (the "Email") offering the appellant a position as a production worker working the afternoon shift noting his rate of pay.
3. Letter from Speech & Language Services dated November 19, 2012 supporting the appellant's application for disability (the "SLS Letter")

PART F – Reasons for Panel Decision

The issue whether the ministry's decision which held that the appellant was ineligible for June 2013 and July 2013 income assistance due to voluntarily leaving employment without just cause is reasonably supported by the evidence or a reasonable application of the applicable legislation in the circumstances of the appellant.

Section 13 of the EEA addresses the consequences of not meeting employment related obligations. Section 13(1)(a)(ii) specifically includes recipients who are receiving income assistance and voluntarily leave employment without just cause.

Section 13(1)(a)(ii) specifically states the following:

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
 - (ii) voluntarily left employment without just cause

Section 13(2)(b) and section 29 of the EAR address the consequences of not meeting employment-related obligations if the recipient does not have dependent children and states the following:

- (b) if a family unit does not include dependent children, the family unit is not eligible for income assistance for the prescribed period.

If the recipient does not have dependent children, the recipient becomes ineligible for income assistance for a period of time which is defined in the EAR section 29.

Section 29 of the EAR states the following:

- (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 in to 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; (B.C. Reg. 304/2002)
 - (ii) the date the default occurred, and (B.C. Reg. 263/2002)

The ministry argues that the appellant quit his job and did not provide evidence to substantiate that he left on account of an injury or any other reason that might give the appellant just cause to voluntarily leave his employment.

As the appellant did not provide proof of his injury, he was ineligible for collecting income assistance for a period of 60 days.

The appellant's reason for leaving his employment is on account of an injury he claims took place at work. The appellant contends that although he never applied for a heavy labor position he accepted this position not fully expecting to be lifting 50-100 pounds at a time.

As a result of the heavy lifting, the appellant claimed he hurt himself and requested a transfer to a different department presumably where there was no heavy lifting involved. The appellant submitted that no one got back to him with respect to his transfer and he believed he was laid off.

The law is clear that if an income assistance recipient leaves employment without just cause they are subject to a period of ineligibility.

Did the appellant voluntarily leave his employment?

The first question to be addressed is whether or not the evidence supports the appellant voluntarily left his employment.

The appellant provided his ROE to the ministry which clearly showed that the appellant quit his employment. The ROE was coded "E" or quit. The ministry likewise followed up with the ROE contact person and HR of the company and both the ROE contact person and HR confirmed the appellant had in fact quit. The ROE contact did not give a reason for the departure and the HR informed the ministry it was on account of ill-fitting safety equipment.

The appellant, however, stated that he was laid off and did not quit his employment. The appellant submitted that he requested a transfer to a different department due to an injury he sustained at work. The appellant considered he was laid off as the employer did not get back to him.

While it is likely the appellant considered that he was laid off it is clear that his employer did not lay him off and believed the appellant quit. This is illustrated on the ROE and subsequent telephone conversations that took place with the ministry and the company representatives.

The appellant furthermore made no attempts to confirm that he was laid off. He did not follow up with his employer to determine the status of his employment and ascertain whether being transferred to another department was even an option. Merely requesting a transfer to a different department and then not returning to work or even contacting a company representative does not amount to being laid off.

Did the appellant have just cause?

As the facts support that the appellant quit or voluntarily left his employment, the next question is whether or not the evidence supports that the appellant had just cause to do so.

The ministry noted that there were various reasons given by the appellant as to why he left his employment. In the Notes it is documented that the appellant first stated he was let go due to a shortage of work and later that the appellant injured himself and asked for time off and his employer did not get back to him.

The appellant claimed, however, that he left his employment as a result of his injury.

The appellant, however, provides no evidence to support he left his employment as a result of an injury he sustained at work. While it is possible that the appellant did injure himself, there is no evidence to substantiate an injury, such as a WorkSafeBC claim, supporting medical documentation or even a report from his employer detailing the incident.

The panel therefore finds the ministry's determination that the appellant was ineligible for income assistance for 60 days due to voluntarily leaving employment without just cause was reasonably supported by the evidence and confirms the decision.