



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the "Ministry") reconsideration decision dated February 4, 2014 which held that the Appellant was denied hardship assistance due to not meeting work search requirements pursuant to section 4.1(2)(b) of the of the Employment and Assistance Regulation (the "EAR").

PART D – Relevant Legislation

Section 4.1(2)(b) and 47.2 of the EAR.



PART E – Summary of Facts

The Appellant was not in attendance at the hearing. After confirming that the Appellant was notified, the hearing proceeded under Section 86(b) of the EAR.

The evidence before the Ministry at reconsideration was as follows:

- 1) Application for Income Assistance dated December 3, 2013 (the "Application Part 1") signed by the Appellant which stated the following:
 - a) that it is a condition of eligibility for income or disability assistance that the applicant search for employment satisfactory to the Ministry by either completing a search for employment as directed by the Ministry during the period immediately following the date on the form or that the applicant must demonstrate to the Ministry that a satisfactory search for employment has been completed during the period immediately prior to the date of signing the form;
 - b) that the applicant must use a work search form provided by the Ministry and return it at the time of the appointment to complete the application process;
 - c) that the applicant is exempt from the condition to conduct a search for employment if the applicant:
 - i) is in an abusive relationship;
 - ii) suffers with a physical or mental condition;
 - iii) or any person in the family unit is a person with disabilities designated by the Ministry;
 - iv) is prohibited by law from working in Canada;
 - v) has reached 65 years of age;
 - vi) is a sole applicant with a dependent child under three years of age;
 - vii) is a sole applicant providing care to a child in the home of a relative, a foster child or a child under three years of age in the applicant's care under an agreement; and
 - d) that the applicant is responsible, among other things, to conduct a search for employment as directed by the Ministry.
- 2) Application for Income Assistance dated December 3, 2013 (the "Application Part 2") signed by the Appellant.
- 3) Work Search Activities Record dated December 13, 2013 (the "Record") completed and signed by the Appellant.

The Record listed the results of the Appellant's daily job search activities. The first entry on the Record is December 3, 2013 and the last entry is December 13, 2013. The Appellant listed eighteen entries under the category 'Types of Activity' listing various employment activities conducted during this period.
- 4) Employment and Assistance Request for Reconsideration dated January 15, 2014 (the "Request") completed and signed by the Ministry.

Under Section 2 of the Request, the Ministry found the following:

- a) On December 3, 2013 the intake worker advised the Appellant: of work search requirements – five items per day five days per week; what eligible items were considered work search activities; of reasonable work search activities outlined on the work search activities record; to submit work search on a weekly basis and provided him with three copies of the Record; and that the Appellant had a review appointment on December 30, 2013.
 - b) On December 13, 2013 the Appellant was informed of the work search requirements by a telephone Ministry worker; Appellant dropped off the Record;
 - c) December 31, 2013 the Appellant contacted the Ministry and he was advised his file was closed as he had not satisfied the hardship requirement; and
 - d) January 20, 2014 the intake worker made contact with the Appellant and asked if he had any further work search activities records to submit and the Appellant advised that he had no further records to submit.
- 5) Employment and Assistance Request for Reconsideration dated January 21, 2014 completed and signed by the Appellant.

Section 3 of the Request for Reconsideration, the Appellant stated the following:

- i) that the rules are very strict and that he is looking for work;
 - ii) that he is waiting for eighteen employers to respond to his resumes;
 - iii) that he did not open a phone book and pick 5 employers per day but he was actively using Work BC and the assistance of his counselor on a retraining plan;
 - iv) that Christmas is a hard time of year to find employment and a majority of employers are away for the holiday season; and
 - v) that the Appellant was cut off from assistance and had nowhere to go until he went to a wellness centre.
- 6) Letter from the Appellant with no named recipient or date which was signed by the Appellant (the "Appellant Letter"). In the Appellant Letter the Appellant states the following:
- a) that he has talked to or provided resumes to the individuals named in his contacts;
 - b) that he is not suited for fast food industry;
 - c) that there is no work locally and he is looking in another province for work;
 - d) that he was unaware he was required to fill out job search forms; and
 - e) that he will go to the phone book and provide legitimate contacts.

For the hearing, the appellant provided the following additional written submission(s) and documentary evidence:

- 7) Notice of Appeal dated February 13, 2014 completed and signed by the Appellant (the "Notice") which stated the following:
- a) that the Christmas season is a difficult time of year to find employment;

- b) that the Appellant has been trying very hard to find employment;
- c) that the Appellant has emailed resumes, cold called employers, had job interviews;
- d) worked only one day on December 25, 2013.

The Panel finds that the additional evidence provided by the Appellant clarified his current situation and was admissible under section 22(4) of the *Employment and Assistance Act* as it was in support of the records before the Ministry at reconsideration.



PART F – Reasons for Panel Decision

The issue is whether the Ministry's decision to deny the Appellant hardship assistance as a result of the Appellant not meeting work search requirements as provided by the EAR is a reasonable application of the law or reasonably supported by the evidence in the circumstances of the Appellant.

Section 4.1(2)(b) of the EAR addresses the first stage of the application process for income assistance prior to the Ministry determining eligibility for income assistance for applicants. Section 4.1(2)(b) states the following:

The first stage of the process for assessing the eligibility of a family unit for income assistance is fulfilling the requirements of subsection (2)

(2) The applicants for income assistance in a family unit

(b) subject to subsections (4) and (6) must

(i) complete searches for employment as directed by the minister for the applicable period under subsection (2.1) immediately following the date of the application under paragraph (a), or

(ii) demonstrate that each of the applicants has completed a search for employment satisfactory to the minister within the 30 day period prior to the date of the application under paragraph (a),

and in either case provide information about and verification of the searches for employment, in the form specified by the minister.

The legislation requires applicants for income assistance to complete searches for employment as directed by the Ministry for the applicable period immediately following the date of the application or demonstrate that each of the applicants has completed a search for employment satisfactory to the Ministry 30 days prior to the date of the application and in either case provide information about the verification of the searches for employment in the form provided by the Ministry.

In determining the Appellant did not qualify for hardship assistance due to not meeting work search requirements pursuant to section 4.1(2)(b) of the EAR, the Ministry concluded the following:

On December 3, 2013 you were advised of the work search requirements expected of you and provided with a work search activities form to record you activities. On December 13, 2013 you spoke with a ministry worker who advised you again of your obligation to complete 5 work searches per day and record the activities on the form provided. You provided the work search activities form with less than 5 activities per day recorded for December 3 to 13, 2013 and provided no further work search activities with your request for reconsideration.

The Ministry relied on the Record completed by the Appellant in finding the Appellant did not meet the legislative requirements. The Record listed a total of eighteen work search activities conducted by the Appellant beginning on December 3, 2013 to December 13, 2013.

The Ministry was not satisfied that the Appellant had completed only eighteen work searches over a ten day period not five work searches per day five days a week. The Ministry stated the Appellant provided work search activities with less than five searches per day and did not provide confirmation of any additional searches at the time of reconsideration.

The Ministry also relied on the intake workers notes to verify that the Appellant was aware of the



legislative requirements and directives of the Ministry, as well notes in the Application Part 1 which lists the legislative requirements to be eligible for income assistance.

The Appellant argued that he was not aware he was required to fill out job search forms but he was nevertheless actively using Work BC and the assistance of his counselor and that he had “emailed resumes, cold called employers and had job interviews...”

The Appellant further claimed that he had talked to or provided resumes to the individuals named in his contacts and that he was currently waiting for eighteen employers to respond to resumes he had previously sent out.

Section 4.1(2)(b) of the EAR

Section 4.1(2)(b) states that an applicant must complete and submit to the Ministry an application for income assistance and include complete searches for employment as directed by the Ministry.

There is evidence to support that the Appellant was aware of the work search requirements and directives given by the Ministry. Section 2 of the Decision to be Reconsidered indicates that the Appellant was advised on two occasions by the intake worker that he was required to conduct five work search activities – five times a week until the review meeting on December 30, 2013.

In the Application Part 1 there is also a section that reads that it is a condition of income assistance for applicants to search for employment satisfactory to the Ministry by completing a search for employment as directed by the Ministry. The Application Part 1 also states that it is the Appellant's responsibility to conduct searches for employment as directed the Ministry. The Application Part 1 was signed by the Appellant on December 3, 2013.

The Appellant also submitted the Record to the Ministry on December 13, 2013 listing eighteen work search activities. The Appellant did not submit further work search activities forms although evidence shows the Appellant was provided with three forms and asked to submit his searches to the Ministry on a weekly basis.

Although the Appellant claimed he did not know about the work search requirements, there is ample evidence to confirm that the Appellant was advised on two occasions by his intake worker and provided forms to complete and submit weekly to the Ministry.

Does section 4.1(1)(4) Apply to the Appellant?

Section 4.1(2)(b) of the EAR does not apply to an applicant if the applicant is prohibited from working in Canada; is 65 years of age; has a physical or mental condition that precludes the person from completing a search for employment as directed by the Ministry; or is fleeing an abusive spouse or relative pursuant to section 4.1(4) which states the following:

- (4) Subsection (2) (b) does not apply to a person who
 - (a) is prohibited by law from working in Canada,
 - (b) has reached 65 years of age,
 - (c) Repealed

(d) has a physical or mental condition that, in the minister's opinion, precludes the person from completing a search for employment as directed by the minister,

(e) is fleeing an abusive spouse or relative, or

(f) Repealed.

Although section 4.1(4) was not discussed in the Reconsideration Decision, the Ministry confirmed that there were no factors that would otherwise entitle the Appellant to be exempt from the work search requirements.

The Ministry submitted that had the Appellant had a physical or mental condition or fleeing an abusive spouse, for example, there would be information and/or evidence in his file to support the claim(s).

As there is no evidence to support that section 4.1(2)(b) does not apply to the Appellant and the Appellant does not raise any arguments based on items listed in 4.1(4), the Panel finds the Ministry's determination that the Appellant did not meet the legislative requirements of section 4.1(2)(b) to be eligible for income assistance was reasonably supported by the evidence establishing that despite reminders, the Appellant did not conduct the required work search activities.

Is the Appellant Eligible for Hardship Assistance Pursuant to Section 47.2 of the EAR?

If an applicant fails to meet the legislative requirements of 4.1(2)(b), the Ministry may provide hardship assistance to an applicant pursuant to section 47.2 providing that:

- 1) that the applicant is ineligible for income assistance because they have not satisfied the requirement under 4.1(2)(b); or
- 2) the completion of searches for employment if the applicant also submits to the Ministry an application for income assistance (part 2 form that complies with section 4.2
- 3) and the Ministry considers there is an immediate need for food or shelter or needs urgent medical attention and undue hardship will occur if the hardship assistance is not provided.

Section 47.2 of the EAR is the section that addresses situations where applicants do not meet the work search requirements. Section 47.2 of the EAR states the following:

(1) The minister may provide hardship assistance to a family unit that is ineligible for income assistance because a member of the family unit has not satisfied the requirement under section 4.1 (2) (b) respecting the completion of searches for employment, if

(a) the applicants who submitted the application for income assistance (part 1) form also submit to the minister an application for income assistance (part 2) form that, subject to this section, complies with section 4.2, and

(b) The minister considers that

(i) any person in the family unit has an immediate need for food or shelter or needs urgent medical attention, and

(ii) undue hardship will occur if the hardship assistance is not provided.

(2) An applicant may submit an application for income assistance (part 2) form under subsection (1) (a) for the purpose of applying for hardship assistance even though the requirements under section 4.1 (2) (b) respecting the completion of searches for employment have not been satisfied.

The Ministry at the appeal hearing submitted the Appellant had qualified and received hardship assistance for the month of December 2013 while he was satisfying his eligibility requirements for income assistance pursuant to section 4.1(2).

The Ministry concluded that because the applicant did not complete his work search requirements pursuant to section 4.1(2)(b) he was not eligible for hardship assistance.

The Panel finds that the Ministry's determination that the Appellant was denied hardship assistance due to not meeting work search requirements pursuant to section 4.1(2)(b) EAR was not a reasonable application of the legislation in the circumstances of the appellant as section 47.2 of the EAR states that a person may be eligible for hardship assistance if they have failed to complete their work search requirements under section 4.1(2)(b) of the EAR.

The Panel therefore rescinds the decision.