



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the Ministry) reconsideration decision dated December 20, 2013 which held that the appellant voluntarily left his employment without just cause on October 16, 2013 and therefore, under sections 13(1)(a)(ii) and 13 2(b) of the Employment and Assistance Act and section 29(3)(a)(ii) of the Employment and Assistance Regulation the appellant was ineligible for income assistance for the prescribed period of ineligibility until two calendar months have elapsed from the date the default occurred.

PART D – Relevant Legislation

Employment and Assistance Act (EAA), section 13
Employment and Assistance Regulation (EAR), section 29

PART E - SUMMARY OF FACTS

The evidence before the Minister at reconsideration was:

- The appellant is a sole employable applicant with no dependants.
- The appellant was employed in the security sector as a casual from August 13, 2012 until October 16, 2013.
- On October 16, 2013 the applicant voluntarily quit his job with his employer.
- The appellant began the application process with the Ministry for income assistance on October 30, 2013.
- On November 18, 2013 the Ministry completed the eligibility interview with the appellant who advised that he was pressured to quit his employment because he had opened a file of complaint with WorkSafe BC as a result of which his employer had reduced his hours and was harassing him. He had a feeling he was going to be dismissed and so he quit.
- The Ministry confirmed with the appellant's employer that the company had provided the appellant with options and that they were working with a WorkSafe officer regarding the appellant's complaint to WorkSafe of a death threat he had received as a result of his employment.
- The employer also informed the Ministry that the appellant had a meeting with them on October 16, 2013 due to complaints on his service delivery and it was his choice to resign from the company.
- On November 29, 2013 the Ministry received a copy of the appellant's employment contract from his employer confirming that the appellant was hired as a casual employee. The Ministry informed the appellant that, in terms of legislation, he was ineligible for income assistance for the months of November and December 2013 for quitting his employment without just cause.
- In his request for reconsideration the appellant stated that he had several reasons for resigning from his employment for just cause. According to the appellant his employer had ignored WorkSafe BC regulations, illegally cut his hours and pay, bullied and harassed him to the point where he was forced to remove himself from his position with them. The appellant informed the company management on October 16, 2013 that he would claim constructive dismissal with Employment Standards. He said that he had attempted on numerous occasions to work out all issues with his employer, however, they answered his attempts by threatening his employment..
- The appellant stated that prior to the WorkSafe incident he had only one issue with his employer in one year. Since July 2013 he had been reprimanded on several occasions and his employer eventually informed him of their three-strike policy where he would be terminated. The appellant said that he was forced to take five days off in August 2013 due to how stressful the company's management had made his work environment
- On October 16, 2013 the appellant said he had a meeting with his manager and assistant manager to review service delivery at a specific job site. One of the items on the agenda at that meeting was an incident that took place at the site on October 11, 2013 when the employer's mobile supervisor reported that the appellant exhibited behavior that was inconsistent with his employment. The appellant confirmed this information in conversation with a Ministry worker.

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- The Ministry worker also spoke with the security company's manager, regarding that incident. The manager said that the reason for the meeting on October 16, 2013 was that there were complaints from the job site regarding the appellant's service. The manager stated that the appellant was not supposed to be seated where he had been seen and that he wanted to discuss and counsel the appellant on these complaints.
 - The appellant said that at the October 16, 2013 meeting he experienced a personal attack session from his employer. He said that he had been subjected to a one-hour intense accusatory questioning and had to beg for a break and a drink of water.
 - The appellant submitted to the Ministry copies of WorkSafe regulations, Employment Standards regulations, a series of emails, a doctor's note and pay stubs to establish his just cause for resigning on October 16, 2013.

At the hearing the appellant testified that he had registered his perceived grievance for constructive dismissal against his employer with Employment Standards B.C. but he could not support his comment with any documentation to or from Employment Standards B.C. The appellant provided the panel and the Ministry representative with copies of his 14-page hand written statement and the following 10 pages of supporting documents referenced in his statement:

Three emails dated September 18 and 20 dealing with a claim made by the appellant that was resolved to his satisfaction.

Pay stub for the period September 8-21, 2013

A two-page interpretation Guidelines Manual excerpt for section 66 of the Employment Standards Act.

An email dated January 6, 2014 dealing with a discrimination complaint by the appellant and advising him to send any information according to the requirements of the legislation.

A two-page Loan Repayment Plan for an amount of \$832.00 to be paid back with monthly payments until December 15, 2015.

An email dated October 11, 2013 from the appellant to his employer requesting a formal meeting for the following Wednesday to discuss recent occurrences on a work site.

The appellant requested permission to, and the panel agreed that, he read aloud the contents of his 14-page statement.

The panel determined the additional documentary evidence was admissible under section 22(4) of the EAA, with the exception of the email dated January 6, 2014 about a discrimination complaint that is not relevant to the present case, the other evidence being in support of the records before the Minister at reconsideration and providing more details about the appellant's claim and situation. However, the panel finds little if any weight can be given to that evidence since it is not directly connected with the cause of the appellant's decision to voluntarily quit his job.

PART F – REASONS FOR PANEL DECISION

The Issue

The issue is whether the Ministry's decision declaring the appellant ineligible for income assistance for the months of November and December 2013 by reason of the appellant having voluntarily left his employment without just cause, under sections 13(1)(a)(ii) and 13(2)(b) of the EAA and section 29(3) of the EAR was either a reasonable application of the legislation or reasonably supported by the evidence.

Legislation

Employment and Assistance Act

Consequences of not meeting employment-related obligations

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, or

(iii) been dismissed from employment for just cause, or...

(2) For the purpose of subsection (1)...

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

Employment and Assistance Regulations

Consequences of failure to meet employment-related obligations

29. (1) For the purposes of section 13(2)(a) [consequences of not meeting employment-related obligations] of the Act...

(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 to in 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;

(ii) the date the default occurred, and...

Appellant's Argument

In his Request for Reconsideration the appellant wrote that he disagreed with the Ministry's reconsideration decision because the overwhelming amount of documentation provided by him showed that he did not voluntarily leave his job but that he was forced out through harassment by his employer. He argued that numerous reasons for just cause were clearly outlined in previous submitted documentation. He stated that his employer illegally ignored WorkSafe B.C. regulations and that once his file with WorkSafe B.C. was opened, his employer cut his hours of work and pay in an attempt to harass him into quitting his job and obtain employment elsewhere.



Ministry's Argument

In reconsideration the Ministry found that the appellant voluntarily left his employment on October 16, 2013 and submitted his application for employment assistance on November 21, 2013. The Ministry's decision was that the appellant voluntarily left his employment without just cause because although his work hours had been reduced and he was having discussions with his employer regarding his performance, in the Ministry's opinion it was not reasonable for the appellant to quit his employment due to reduced hours and dealing with performance issues. The Ministry stated that as the appellant was hired as a casual employee it did not appear that his employer was obligated in any way to give more work hours than they required from the appellant. The Ministry said that if the appellant was not satisfied with his employment, it would have been reasonable for him to find new employment first prior to resigning from his current job. The Ministry representative relied on the comments made in the Ministry's reconsideration decision.

Panel Decision

The appellant does not dispute the fact that he voluntarily left his employment on October 16, 2013 but that he left his employment with just cause claiming that he was a victim of workplace harassment which led him to that decision. The appellant admitted to the Ministry worker that since July 2013 he had been reprimanded by his employer on two occasions, and eventually informed of their three-strike policy where he would be terminated. The panel notes the Ministry confirmed with the appellant's employer that the company had provided the appellant with options and that they were working with a WorkSafe B.C. officer regarding the appellant's WorkSafe complaint that he had received a death threat on a job site. The appellant's employer also stated that the appellant's meeting with them on October 16, 2013 was to discuss complaints on the appellant's service delivery to a client and to counsel him on the matter. The panel finds the Ministry reasonably determined, based on the evidence provided, that it was the appellant's choice, at that meeting, to resign from the company. The employer stated that on October 16, 2013 the appellant informed the employer that he would claim constructive dismissal with Employment Standards however he did not provide any documentation to support his having made contact with Employment Standards

The panel finds the appellant was hired as a casual employee and it does not appear as if his employer was obligated in any way to give him more work hours than they required from him. The panel notes the Ministry's statement that if the fact that the appellant's work hours being reduced caused him to be dissatisfied, then a reasonable course of action would have been to find new employment first before resigning from the company and thus the Ministry reasonably determined the appellant has voluntarily left his employment without just cause.

The panel finds that the Ministry's determination that the appellant voluntarily left his employment without just cause and that under sections 13(1)(a)(ii) and (2)(b) of the EAA and section 29 (3)(a)(ii) of the EAR the appellant was ineligible for income assistance for the months of November and December 2013 was a reasonable application of the applicable enactment in the circumstances of the appellant and confirms the ministry's decision.