

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (ministry) dated February 28, 2014, in which the Ministry determined that the Appellant is ineligible for income assistance for two months because he failed to pursue suitable employment, pursuant to sections 13(1)(a) and 13(2)(b), Employment and Assistance Act and section 29(3)(a), Employment and Assistance Regulation.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) section 13

Employment and Assistance Regulation (EAR) section 29

PART E – Summary of Facts

Information before the Ministry at Reconsideration included:

- A copy of a union dues check-off authorization, dated January 24, 2014, signed by the Appellant, authorizing dues for the month of January, 2014 and thereafter.
- A copy of an offer of employment to the Appellant dated January 24, 2014, employment starting January 27, 2014.
- The Appellant's Request for Reconsideration, dated February 19, 2014, with a letter from the Appellant stating that he did not start work with the company and that he was not informed that it was a union shop until he received an email January 17, directing him to go to the union local office. The Appellant stated that he was informed at the union office that he was to start paying dues in the month of January and an initiation fee at the end of three months. He stated that he thought he would be able to take care of the problem when he got to work, but when he spoke with the union representative at the worksite and explained that he did not agree with paying dues before three months had passed, the union representative was not interested. The Appellant stated in the letter that he did not take the forklift course due to the problem with the union, and he did not receive the letter of employment until January 24, 2014.

At the hearing the Appellant submitted a copy of email correspondence between himself and the employer's representative. The first email is from the employer to the Appellant on January 17, 2014, stating that they are offering him a job at \$28.32 per hour. The Appellant replied on the same date, stating that he wished to start January 27, due to another commitment. The third email is from the employer to the Appellant on the same day, stating where to go for his forklift certification, and that they run a course on Saturdays. The Ministry had no objection to the admission of this document. The Panel admitted the email correspondence as written testimony in support of the information and records that were before the minister when the decision being appealed was made. The email correspondence is directly related to the issues in this appeal.

The Appellant stated that there are two issues in this matter: the original email he was sent concerning the job offer did not inform him that he needed forklift certification prior to starting the job, and he was not told at his interview that this was a union shop. When he was requested to go to the union local, he was told he had to pay initiation and dues, however he did not wish to pay dues for the first three months; the initiation fee was payable after three months. The Appellant stated that he does not know why he should be required to pay union dues if he is not a member for three months. He stated that when he spoke to the owner of the company, he was told that he would not be hired anyway because he had not completed the forklift certification. The Appellant stated that he was not told of the requirement for forklift certification in the email of January 17 offering him the job, and he did not know it was a prerequisite.

In response to a question from the Panel: The company did not inform you about the forklift requirement, but the email says it is needed? The Appellant replied that he knew he had to take the course, but he didn't know he had to take it before starting work. He stated that he was told he would have to repay the course cost if he left before three months. He stated that he wanted to get the union issue resolved, then take the course the first Saturday after that. He stated that most companies put requirements in a letter of employment, and it was not specifically stated in the email. He stated that he did not feel he should pay union dues before the three month probation period had passed.

Question from the Panel: The authorization dated January 24 – you signed an agreement to pay initiation and union dues? The Appellant replied that he did not say anything because he wanted the job, and he hoped he could resolve it with the shop steward. The owner said he did not know, and then he asked whether the Appellant had completed the forklift certification.

The Ministry responded that they were advised by the employer when they spoke to them on February 18 that the Appellant's training was scheduled for January 25. The Ministry was advised that the employer covers the cost of the training as it is a condition of employment, and it is only repayable if the employee does not complete the probationary period. They were advised that the course has an extremely high success rate. The Ministry stated that the Appellant did not state any reason for not following through with the January 25 training. The Ministry stated that the company told them that the Appellant complained about having to pay union dues and failed to obtain his forklift "ticket", and they could not have him working for the company. As a result, the Appellant was deemed ineligible for income assistance for two months.

In response to a question from the Panel, the Ministry stated that they had no knowledge of the employment offer until they were informed by Work BC on January 28.

The Panel makes the following findings of fact:

- The Appellant was offered employment on January 17, 2014, and in a later email that date, he was informed of the union local location and of the location of a course for forklift certification, with a request that he confirm which weekend he would attend.
- The Appellant did not attend forklift certification training.
- The Appellant signed a union "check-off" authorization January 24, 2014 to deduct dues from his wages and to pay an initiation fee of \$150.00.
- The Appellant reported to the worksite January 27, 2014, but did not start work.

PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the Ministry's decision dated February 28, 2014, in which the Ministry determined that the Appellant is ineligible for income assistance for two months because he failed to pursue suitable employment, pursuant to sections 13(1)(a) and 13(2)(b), EAA and section 29(3)(a), EAR.

Legislation

EAA

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

- (i) failed to accept suitable employment,
- (ii) voluntarily left employment without just cause, or
- (iii) been dismissed from employment for just cause, or

(b) at any time while a recipient in the family unit is receiving income assistance or hardship assistance, the recipient fails to demonstrate reasonable efforts to search for employment.

(2) For the purposes of subsection (1),

(a) if a family unit includes dependent children, the income assistance or hardship assistance provided to or for the family unit must be reduced by the prescribed amount for the prescribed period, and

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

EAR

Consequences of failing 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,

(a) for a default referred to in section 13 (1) (a) of the Act, the income assistance or hardship assistance provided to or for the family unit must be reduced by \$100 for each of 2 calendar months starting 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

(b) for a default referred to in section 13 (1) (b) of the Act, the income assistance or hardship assistance provided to or for the family unit must be reduced by \$100 for each calendar month until the later of the following occurs:

- (i) the income assistance or hardship assistance provided to the family unit has been reduced for one calendar month;
 - (ii) the minister is satisfied that the applicant or recipient who committed the default is demonstrating reasonable efforts to search for employment.
- (2) The reduction under subsection (1) applies in respect of each applicant or recipient in a family unit who does anything prohibited under section 13 (1) [*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 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;
 - (ii) the date the default occurred, and
 - (b) for a default referred to in section 13 (1) (b) of the Act, until the later of the following has occurred:
 - (i) the family unit has been ineligible for income assistance for one calendar month;
 - (ii) the minister is satisfied that the applicant or recipient who committed the default is demonstrating reasonable efforts to search for employment.

The Appellant's position is that he was not informed that he had to complete the forklift certification course prior to reporting for work. As a result, he did not and he was told by the employer that he would not be hired.

The Ministry's position is that the Appellant was scheduled to take the required training, but did not do so, and when he reported to work he complained about the requirement to pay union dues for the first three months. As a result of his failure to complete the requirements, the Appellant was not able to accept the employment that was offered.

The Panel notes the apparent discrepancy in the Appellant's evidence. In his letter attached to his Request for Reconsideration, the Appellant wrote that he "did not take the course do [sic] to the problem with the union". In his oral evidence to the Panel, the Appellant stated that he was not informed that he needed forklift certification and found out when he reported to the jobsite that he had to have completed the course. In the email correspondence admitted by the Panel, the company representative stated "as for getting your forklift certification, we usually work with [name and address of trainer]. I'll let them know you will be attending, but perhaps you should phone and confirm which weekend you'll attend". The Panel also notes that the main issue identified in both his Request for Reconsideration and oral testimony before the Panel was the matter he identified concerning the payment of union dues before a three month probationary period was completed. It appears that the Appellant was aware of the requirement to complete a forklift certification course in order to accept the employment that was offered, but failed to do so. The Panel finds that the Ministry reasonably determined that the Appellant is ineligible for income assistance for two months because he failed to pursue suitable employment, pursuant to section 13(1)(a) and that in accordance with 13(2)(b) EAA and section 29(3)(a) EAR, he was ineligible for income assistance for the prescribed two months.

The Panel therefore confirms the Ministry's decision as reasonably supported by the evidence.