

### PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (the Ministry) dated March 14, 2014, which held that the Appellant had voluntarily left employment without just cause and was therefore subject to a sanction of ineligibility for income assistance for February and March 2014 pursuant to Section 13 of the EAA and Section 29 of the EAR.

### PART D – Relevant Legislation

*Employment and Assistance Act, (EAA) Section 13 (1) (ii) (2)(p) (3) (a)*  
*Employment and Assistance Regulations, (EAR) Section 29 (3) (a) (i) (ii)*

## PART E – Summary of Facts

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

The evidence before the Ministry at reconsideration consisted of the following:

1. From the Ministry's reconsideration decision:

- The Appellant is a single employable recipient with no dependants.
- The Appellant contacted the Ministry on 06 February 2014 and advised that she would be giving 2 weeks notice at her job because she was not being treated very well, that her boss was mean to her, and that she had gone to the Labour Relations Board.
- No evidence has been provided to substantiate the Appellant's claim to have reported her employer to the Labour Relations Board.
- On 17 February 2014 the Ministry processed the Appellant's request for continued assistance stub for March. The Appellant advised the Ministry that she had quit her job because she did not get along with her boss, and because she was unable to work night shift because no busses were running by the time her shift was over, and because her boss would not accommodate her. The Appellant submitted a record of employment showing that she had quit, and that her last day of work had been 17 January 2014.
- On 20 February 2014 the Ministry contacted the Appellant's employer who advised that the Appellant was hired on the understanding that she would be working nights, with the shifts ending between 10:30 and 11:00 PM. The employer advised that when the Appellant subsequently indicated that she could only work during the day because there were no buses operating at the end of the night shift; some day shifts were offered when they became available. Often however, when offered a day shift, the Appellant was unavailable, being unable to secure a ride or not having sufficient funds to pay the bus fare. On a couple of occasions, the employer's son provided transportation when the Appellant did not have funds for bus fare.
- On 20 February 2014 the Ministry discussed the Appellant's reasons for leaving her employment with her. The Appellant advised the Ministry that she quit because she didn't get along with her boss, that the boss always made the Appellant do everything and just sat watching, and that by the time the Appellant's work was finished after the night shift, no buses were running that could get her home.
- On 21 February 2014 the Appellant was advised by the Ministry that she was ineligible for assistance for the months of February and March because she had voluntarily left her employment without just cause.

The Appellant's Request for Reconsideration, dated 04 March 2014 provided no new information. Her Reasons went to argument (see Part F, Reasons for Panel Decision, below).

In her Notice of appeal dated 19 March 2014, the Appellant writes:

"I disagree with the decision because I felt I had no other options available but to quit (my) job. Transportation was a barrier, plus my boss added more duties for me to do over and beyond my job description. It added pressure and stress onto me."

At the hearing, the ministry stood by its position. The ministry representative explained that if the appellant had indeed filed a complaint with the Labour Relations Board and had provided the ministry with a copy of such a complaint, the ministry would have taken that into account in making its decision.

## PART F – Reasons for Panel Decision

The issue under appeal is whether the Ministry decision to deny the Appellant income assistance for the months of February and March 2014 under Section 13 of the Employment and Assistance Act and Section 29 of the Employment and Assistance Regulations was reasonably supported by the evidence or was a reasonable application of the legislation. In particular, the issue is whether the Ministry reasonably determined that the information provided established that the Appellant quit her employment without just cause.

The relevant legislation is set out in the *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
    - (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. (B.C. Reg. 263/2002)
- (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.
- (3) The Lieutenant Governor in Council may specify by regulation categories of applicants or recipients to whose family units this section does not apply.

The relevant regulations are set out in the *Employment and Assistance Regulations*:

### Consequences of failing to meet employment-related obligations

#### 29.

- (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)
  - (b) for the 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. (B.C. Reg. 263/2002)

The panel considered each party's position on the criteria at issue in this appeal.

The position of the Ministry is that the Appellant knew, or ought to have known when she accepted her most recent offer of employment, that it required her to work nights. The Ministry noted that:

- the Appellant was made aware of and accepted the requirement to work night shift when first offered employment
- the Appellant should have made the employer aware of transportation issues prior to accepting the position offered,
- the employer had in fact tried to accommodate the Appellant by offering transportation and providing alternative day shift work when available.

The Ministry was not satisfied that:

- the employer was unreasonable or had unrealistic expectations
- there was evidence to support the Appellant's assertion that she had reported her employer to the Labour Relations Board.

The position of the Appellant, as set out in her Request for Reconsideration, is that she did not agree with the decision due to the fact she had 'just cause' for quitting. She stated that her manager was unwilling to work with her scheduling preference and that she had told the manager from the beginning that she could not work nights due to lack of transportation and the location of her residence. The Appellant stated that her manager kept placing her on nights. She would do some day shifts, then suddenly be on a night-shift, when her manager knew she struggled, with no transportation to get home after night-shifts. The Appellant indicated that she would be required to stay until 11:00 PM when the last bus was 10:34 PM on weekdays; 10:05 PM on Saturdays. The Appellant stated that the manager was not flexible with scheduling her shifts and that he placed unrealistic expectations and excessive pressure on her while she was working.

The panel notes that the Appellant did accept the offer of a job by her recent employer, and tacitly accepted the terms of that offer by working nights. The panel also notes that while the Appellant complained of being treated badly and of having unrealistic expectations and pressure placed upon her, there is no evidence to support her assertion that she reported this to the Labour Relations Board.

Accordingly, the panel finds that the Appellant has not demonstrated that she had just cause to leave her employment, and that she did so voluntarily.

On the basis of the foregoing, the panel finds that the Ministry's decision to deny the Appellant income assistance for the months of February and March 2014 was reasonably supported by the evidence. The panel therefore confirms the Ministry's reconsideration decision.