

APPEAL #

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry) reconsideration decision of December 10th, 2013 wherein the ministry determined the appellant was not eligible for income assistance as set out in section 9(1)(b) Employment and Assistance Act (EAA) because he did not comply with the conditions stated in his Employment Plan (EP) as he failed to demonstrate reasonable efforts to participate in the program and did not cease to participate in the program for medical reasons as set out in section 9(4) EAA.

PART D – Relevant Legislation

Employment and Assistance Act (EAA), section 9

PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration:

- Appellant's Employment Plan (EP) dated June 24th, 2013;
- Request for Reconsideration dated November 26th, 2013;
- Appellant's CV for job application.
- Message to Worker in appellant's name dated November 26th, 2013 which stated:
 - I have missed appointments and I was 2 hours late for my for my last appointment and the file was closed.
 - Reasons for missing appointments First one I forgot. 2nd one I was out of town and forgot to phone in because of the funeral. I rebooked and was two hours late. (file was closed.)
 - I have a appointment on Dec. 10 2013. That is a long time from now. And I do not want to be hungry and homeless. It is truly been a strug(g)le (sp) and that is my request for reconsideration.
 - I, (appellant's name), do not want a reconsideration supplement I Need It.

On June 24th, 2013 the appellant completed and signed an EP and was referred to BC Employment Program contractor. The ministry worker (EAW) reviewed the EP with the appellant and he signed and initialed the EP indicating that he understood his obligations to attend and participate fully in the program and the consequences of being deemed ineligible for further income assistance should he be deemed non-compliant.

On June 27th, 2013 the contractor advised the EAW that the appellant had missed two scheduled appointments and had left him a voice mail message advising him his next appointment was scheduled for July 11th, 2013. On September 27th, 2013 the contractor advised the EAW that the appellant had missed several scheduled appointments, i.e. August 23, September 10 and 27, and had also not responded to several phone and email messages. The contractor advised the EAW the appellant's file would be closed on October 1st, 2013 if no further contact is made. On October 24th, 2013 the contractor reviewed the appellant's file and confirmed that the appellant had not made any contact with the contractor. The EAW noted the appellant's file and flagged his file for further discussion.

On October 25th, 2013 the appellant attended the ministry office inquiring about his November benefits cheque. The EAW discussed the appellant's non-compliance with his EP and inquired if he had any medical issues that the ministry was not aware of that prevented him from working, to which he stated, "To be honest, I kind of enjoyed my summer and went on a bit of a bender." The EAW advised the appellant he was being denied income assistance.

The conditions set out in the EP signed by the appellant on July 24th 2013 state, "I will participate fully and to the best of my ability in the activities required by the ministry or contractor as set out in sections 3(a) to (f) of the EP. Section 3(a) to (f) states:

- a) Term: 2013-Jun-24 to 2015-Jun-30
- b) Name of Program/Service: Work BC
- c) Name of Contractor: [phone number shown]
- d) Details: I am aware that I will be contacted by Work BC Employment Center [WBCEC] within 5 business days to schedule an Orientation Session. I am aware that should I not be contacted by WBCEC within the stated 5 business days, I will attend their office within 5 business days thereafter. As a condition of continued eligibility for assistance, I will attend and participate in WBCE services as directed by the WBCEC sub/contractor to address any issues that may impact my employability and will complete all tasks assigned, including my activities that may be set out in my action plan. I will notify the sub/contractor, Work BC Employment Services, if I am unable to attend a session, or when I start or end my employment.

I will declare all income and report any changes to the ministry. I understand that if I fail to comply with the conditions of my employment plan, I will be ineligible for assistance under the Employment and

Assistance Act.

I am fully aware of my employment plan obligations x [initialed by appellant]

I am fully aware of the consequences of ineligibility should I be non-compliant with my employment plan x [initialed by appellant]

- e) 2013-Jun-24
- f) Frequency: blank
Method: blank

On the Notice of Appeal form completed by the appellant under Reasons For Appeal: Tell us why you disagree with the Ministry's reconsideration decision - The appellant wrote "missed my appointments, but I am back with my work action plan. Fighting Alcohol." In the area titled Accommodation: the appellant is asked the question, "Do you require accommodation due to a disability?" The appellant checked the "yes" box and beside the box wrote, "Alcoholic". A further question under Accommodation – If yes, please tell us what you need. The appellant wrote "I don't want to be on the streets. I am working to get better."

The panel finds the appellant's statements are relevant to the issue under appeal and that his statements do contain information that is in support of the information and record that was before the ministry at the time the reconsideration decision was made and therefore are admissible as evidence under section 22(4) EAA.

At the hearing the appellant stated the he felt he was lazy that he had not done a number of things in his life because he has had an addiction for several years. He stated that he tried to come up with excuses for not making the appointments but he doesn't have any. He stated that he cleaned up for a period of time, has gone to treatment and did attend some meetings with his sponsor but still fights his addiction to alcohol. The appellant testified that he has gone back to the ministry's contractor, on his own, and is now trying to advance his work program and has a new appointment scheduled with the contractor.

In response to questions from the ministry the appellant acknowledged that he had met with EAW on October 25th 2013 and that he understood the conversation regarding his necessity to comply with the conditions in his EP and the consequences if he did not comply with those conditions in his EP. The appellant also acknowledged that he did not mention to the EAW that he has an alcohol addiction problem.

The panel finds the appellant's testimony is relevant to the issue under appeal and that his testimony does contain information that is in support of the information and record that was before the ministry at the time the reconsideration decision was made and therefore is admissible as evidence under section 22(4) EAA.

The ministry relied on its reconsideration decision and submitted no new information.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration decision wherein the ministry determined the appellant was not eligible for income assistance as set out in section 9(1)(b) EAA because he did not comply with the conditions stated in his EP as he failed to demonstrate reasonable efforts to participate in the program and did not cease to participate in the program for medical reasons as set out in section 9(4) EAA.

The legislation considered:

Section 9 EAA

- (1) For a family unit to be eligible for income assistance or hardship assistance, each applicant or Recipient in the family unit, when required to do so by the minister, must
 - (a) enter into an employment plan, and
 - (b) comply with the conditions in the employment plan.
- (4) If an employment plan includes a condition requiring an applicant, a recipient or a dependent youth to participate in a specific employment-related program, that condition is not met if the person
 - (a) fails to demonstrate reasonable efforts to participate in the program, or
 - (b) ceases, except for medical reasons, to participate in the program.

The ministry's argued that for a family to be eligible for income assistance the recipient must enter into an EP and comply with the conditions stated in the EP. The ministry argued the appellant signed the EP, acknowledged that he knew the conditions with the EP and the consequences is he did not comply with those conditions. The ministry argued the appellant failed to comply with the condition(s) in his EP when he failed to attend several scheduled appointments with the ministry's contractor; that the contractor attempted to re-schedule these appointments by leaving phone messages, etc. for him to contact them but he did not respond. The ministry argued that it was not until the appellant's November income assistance cheque was withheld that the appellant attended the ministry office. The ministry argued the appellant did not provide any medical reason to the EAW for not complying with his EP; that the appellant stated "he went on a bit of a bender" was why he did not attend the appointment(s) with the ministry's contractor.

The appellant argued that he has had an addiction to alcohol for several years and that is why he did not make the scheduled appointments.

The panel finds that the EP laid out several conditions, which the appellant acknowledged he understood by initialing that area of the EP, that he would attend and participate in Work BC Employment Services as directed by the ministry contractor; and, that he will contact the contractor if is he is unable to attend a session. The panel finds that the appellant did not attend the appointments scheduled by the contractor and did not contact Work BC Employment Services to advise he was not able to attend scheduled appointments.

In reference to section 9(4) EAA which states that if an employment plan includes a condition requiring an applicant to participate in a specific employment-related program, that condition is not met if the person

- (a) fails to demonstrate reasonable efforts to participate in the program, or
- (b) ceases, except for medical reasons, to participate in the program, the panel notes the following:

The ministry's position is that the appellant did not demonstrate reasonable efforts to participate in his EP nor did he provide any medical reason why he was not able to participate in the program set out in the EP. The ministry's position is that when the EAW spoke to the appellant on October 25th, 2013 to inquire if there were any medical reasons that prevented him from working or participating in the contractor's program the appellant told the EAW "To be honest, I kind of enjoyed my summer and went on a bender". The ministry's position is

that the appellant did not inform the ministry that he had an alcohol addiction that prevented him from working or participating in an employment program. The appellant's position is that he has had an addiction to alcohol for several years and he continues to fight his addiction.

The panel finds the evidence does not support that the appellant demonstrated a reasonable effort to participate in the EP program by making contact with the contractor or responding to the contractor's efforts to contact him to advise the contractor that he could not make scheduled appointments.

The panel finds that although the appellant admitted to an addiction to alcohol at the hearing there is no medical evidence to support that the appellant ceased to participate in the program for medical reasons.

Therefore, the panel finds the ministry's decision that the appellant did not comply with the conditions in his EP as set out in section 9(1)(b) EAA was reasonable.

The panel finds that based on the evidence the ministry's decision was a reasonable application of the applicable enactment in the circumstances of the person appealing the decision and confirms the decision pursuant to section 24(1)(b) and section 24(2)(a) of the EAA.