

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision dated July 3, 2014 in which the ministry denied income assistance to the appellant, pursuant to section 9 of the Employment and Assistance Act (EAA), for failing to comply with the conditions of her employment plan.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) section 9

PART E – Summary of Facts

The information before the ministry at the time of reconsideration included the following:

- An employment plan (EP) signed by the appellant dated March 27, 2014. The agreement required the appellant to complete a minimum of 25 hours of work related activities per week and maintain a record of her activities. The monthly record of her work related activities were to be submitted to the ministry by the 5th of each month. She was to complete all tasks assigned to her contact the ministry and if she is unable to follow through on her obligations for any reason.
- A handwritten letter from the appellant submitted with the request for reconsideration dated July 2, 2014. In the letter the appellant argues she has complied with the conditions of her EP by submitting her work related activity record by the 5th of each month. She added that she had attended the ministry office to pick up her assistance cheque on two different months and she was not told that her activity record was missing for prior months. She wrote that the ministry had sent her the activity records of another person in error and that causes her to question the reliability of the ministry's record keeping. She proposes that the ministry may have misplaced her activity records in error.

At the hearing the appellant told the panel that she understood what was required of her by the EP. She stated she dropped the activity records into the ministry mailbox by the 5th of each month as required however, due to the ministry's poor record keeping, she suspects her records have been lost or misfiled. In support of her argument she explained that the ministry recorded her home address incorrectly and sent her someone else's activity records in the mail in error. She argued that these errors are indicative of sloppy internal ministry controls.

The appellant was accompanied by two witnesses who stated they saw her drop off documents to the ministry office. When the first witness was asked for details by the panel she could not recall what the appellant dropped off nor the approximate month she was with her. The witness explained that she suffers from dementia and therefore has a poor memory. The second witness said he saw the appellant drop off documents to the ministry office but was unable to recall either the month or any other detail about what he saw.

When the appellant was asked by the panel if she had any details about any of her work related activities she said she has no record except for a few notes written on papers around her house; she did not, however, bring those papers with her. She said she could not recall from memory any of her work search activities contained in the records she delivered to the ministry. She maintained that she has been conducting 25 hours of work related activities per week since she signed her EP.

The appellant stated she dropped off an address change document along with her activity record on May 26, 2014 however the ministry received only the address change document. When asked by the panel which month's record she was delivering on the 26th, she said she didn't know but it was likely the record due on June 5. She thought she might have dropped it off even though there was still one more week in May that she needed to record.

At the hearing the ministry reviewed the reconsideration decision including the obligations contained in the EP signed by the appellant. The ministry stated there are strict internal controls to handle mail received in the mailbox including activity records. The records are scanned into the client's electronic file and then the paper document is batch-filed by date so it can be easily retrieved in the future if

necessary. The ministry conceded that the office might, at times, make an error with a client's file or misplace a document; however, it is extremely unlikely the office would make the same error on the same client 3 months in a row. The ministry added the privacy breach investigation concluded a ministry employee took the incorrect document off of a shared printer and did not review the contents before putting them in the mail. The ministry is confident it was an isolated incident.

The ministry told the panel that client files are audited bi-monthly. When the appellant's file was reviewed on June 16th it was discovered that the ministry had not received any of her activity records and therefore signaled her assistance cheque for June. The appellant went to the ministry office on June 26 and was informed she was not eligible for assistance because of her failure to comply with the conditions of her EP.

When asked about the error on the appellant's address the ministry told the panel that she did not investigate but it appeared that the street number was entered with one incorrect digit likely due to human error.

The panel finds as fact:

- The appellant signed an EP on March 27, 2014 requiring her to submit a record of her work related activities to the ministry by the 5th of each month.
- The ministry made an error when recording the appellant's home address by entering one digit incorrectly.
- The ministry mailed the appellant the activity records for another client in error.

PART F – Reasons for Panel Decision

The issue under appeal in this case is the reasonableness of the ministry's decision to deny the appellant income assistance, pursuant to section 9 of the Employment and Assistance Act (EAA), for failing to comply with the conditions of her employment plan. The ministry determined the appellant did not submit the required work related activity records to the ministry by the 5th of each month.

Section 9 of the Employment and Assistance Act states:

9 (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.

(2) A dependent youth, 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.

(3) The minister may specify the conditions in an employment plan including, without limitation, a condition requiring the applicant, recipient or dependent youth to participate in a specific employment-related program that, in the minister's opinion, will assist the applicant, recipient or dependent youth to

(a) find employment, or (b) become more employable.

(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 argument of the appellant is that she did deliver the activity reports by the 5th of each month but the ministry likely misfiled them.

The argument of the ministry is that the appellant did not submit the activity reports by the 5th of each month and that it is very unlikely that the office would have misfiled 3 months of records.

In coming to its decision the panel considered the appellant's argument that she delivered the activity records to the ministry office. The panel weighed this argument with the fact that the appellant could not recall any detail of her work related activities from the time she signed the EP on March 27 to June 26 when she was found ineligible. This period of time is 13 weeks, during which she would have been conducting work related activities for 25 hours per week totaling 325 hours of activities. The appellant did not have any documentation supporting her claim that she engaged in work search activities.

The panel considered the testimony of the witnesses in which they said they saw the appellant drop off the documents to the ministry office. The panel found that they were not persuasive in supporting the appellant's claim. The first witness was unable to offer any detail of the general timeframe of the document drop-off and she was unsure of what the appellant delivered. The witness told the panel

that she suffers from dementia making it difficult to rely on her testimony. The second witness stated he saw her drop off documents of some kind at some time in the past. He could not recall the month he was with her nor how long ago he was with her.

The panel considered the appellant's argument that due to the errors the ministry admits to making on her file in the past, including sending her someone else's activity records, it is reasonable that they have misplaced her records. The panel reviewed the ministry's testimony that this breach of privacy was investigated and was an isolated incident. An employee taking the wrong documents off of a shared printer caused it. The ministry provided an overview of the protocols for handling incoming mail and how it is scanned and stored. The panel is satisfied with the ministry's explanation and finds that the ministry was reasonable to determine that the possibility that all the appellant's work activity records being misfiled, as suggested by the appellant, is unlikely. The panel finds the ministry was reasonable to find the appellant ineligible for assistance because of her failure to comply with the conditions of her EP as required by the EAA section 9.

The panel finds that the ministry's decision was a reasonable application of the applicable enactment in the circumstances of the appellant and confirms the decision.