



PART C – Decision under Appeal

The decision under appeal is the reconsideration decision dated Aug 13, 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 his 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 September 25, 2013. The agreement required the appellant to attend all appointments by the Employment Program of BC (EPBC) contractor, to participate in EPBC programming regularly and as directed by the contractor, and to notify the contractor if he is unable to attend a session. The EP required the appellant to provide, upon request, verification of his compliance with the conditions of his employment related program including proof of work searches, attendance, and participation in the program.
- A Request for Reconsideration form dated June 25, 2014 completed by the appellant. In it he writes he spent half of his assistance cheque on a new mobile phone leaving him no funds to take transit, he was without a phone for a period of time and was unable to contact people by phone or email, he was out of the house 2-3 days per week looking for work, he has osteoarthritis, and he was not aware that the EP he signed required him to attend the EPBC program after his initial course was complete.

At the hearing the appellant requested an adjournment to allow time for him to receive confirmation that his application for his trade certificate had been submitted in April 2014. The panel asked him why this trade certificate was relevant and he told the panel he was not sure but he thought it would show he is pursuing employment. He then told the panel that he would like to have an advocate present because he feels the outcome of the hearing is important. He said he called an advocate to assist him with an application for Persons With Disabilities and he would like the advocate with him at this hearing as well but he had not made the necessary arrangements. The ministry stated the hearing should proceed in order to expedite a decision in this case.

The panel determined that the appellant had sufficient time to consult with an advocate or to arrange to have an advocate present at the hearing. The panel determined that the document confirming he has submitted an application to become trade certified would not be necessary and the panel would accept as fact that he has submitted the application as he claims; therefore the confirmation would not be necessary. The hearing proceeded as scheduled.

At the hearing the appellant provided new evidence. He submitted a letter dated April 24, 2014 from his EPBC contractor. The letter states the appellant's case will remain actively managed, he will continue his job search with/at the EPBC contractor office, and he will attend scheduled appointments with the case manager until he reached his goal of full-time employment. The letter notes he has applied for certification as a Heavy Equipment Operator and that his next appointment is scheduled for May 8, 2014.

This letter was admitted as evidence as per the Employment and Assistance Act section 22 (4). The panel found that the evidence contained in the document is in support of evidence that was before the ministry at the time of the reconsideration. The letter was accepted because it provides additional information about his involvement with the EPBC contractor during the period of time in question. The ministry had no objections to the letter being accepted.

At the hearing the appellant told the panel he began attending the EPBC program shortly after signing the EP on September 25, 2013 and completed a course with them on November 15, 2013. He stated he continued to attend appointments with the contractor to complete his application for

trade certification between November 2013 and April 2014. At the end of April 2014 he submitted his application for trade certification. He told the panel that, after the application was submitted, he stopped going to the program provider's office because he was searching for work and because he didn't know he was supposed to go in anymore. The appellant also told the panel that he continued to attend the contractor office to search for work until the end of May, however, he forgot to login to the office attendance system to track his activities. He said he ceased attending because he had no money for bus fare and he lived 3 miles from the office. He attended an appointment at the contractor's office on May 8th. He stated his mobile phone was smashed on June 15, 2014 and he was unable to make calls until he purchased a new phone on July 31, 2014. The appellant continued that he was applying for employment from April to July and he was giving his landlord's phone number to prospective employers when he had no phone and he believed he gave the number to the EPBC contractor as well. The panel asked the appellant about the comment in his Request for Reconsideration form that he has osteoarthritis and whether his condition prevented him from going to the EPBC contractor's office. He told the panel no, his medical condition did not prevent him from going.

At the hearing the ministry reviewed the reconsideration decision including the obligations contained in the EP signed by the appellant. The ministry noted the requirement in the EP for the appellant to participate in the EPBC contractor's program regularly and as directed by the contractor. The EPBC contractor contacted the ministry when they had lost contact with the appellant to report him as non-compliant. The ministry told the panel that the EPBC contractor did not provide the ministry with an attendance record however the ministry relies on the contractor's assessment that the appellant did not make regular contact as required by his EP.

The panel finds as fact:

- The appellant signed an EP on September 25, 2013 requiring him to attend all appointments by the EPBC contractor, to participate in EPBC programming regularly and as directed by the contractor, and to notify the contractor if he is unable to attend a session. The EP required the appellant to provide, upon request, verification of his compliance with the conditions of his employment related program including proof of work searches, attendance, and participation in the program.
- The appellant worked with the EPBC contractor to submit a trade certification application. His application to the certifying organization was submitted in April 2014 and he is waiting for the results.
- The last appointment the appellant attended with the EPBC contractor was May 8, 2014.
- The appellant does not have a medical condition that would prevent him from meeting his obligations of the EP.

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 his employment plan. The ministry determined the appellant did not demonstrate reasonable efforts to participate in the program and did not have a medical reason to cease participate in the program.

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 appellant's argument is that he did demonstrate reasonable efforts to participate in the program but he was not aware he was suppose to attend after his trade application was submitted and he did attend however his attendance was not logged into the EPBC contractor's system.

The ministry's argument is that the appellant did not demonstrate reasonable efforts to participate in the program by not making contact with the EPBC contractor after May 8, 2014.

In coming to its decision the panel considered the appellant's arguments that he unaware that he needed to participate in any activities at the EPBC office once his application for trade certification was submitted, he had no phone for a period, and that he attended the EPBC contractor's office but did not log his visits. The panel considered the obligations listed in the EP the appellant signed on September 25, 2013. The EP required him the participate in EPBC programming regularly and as directed by the contractor, however, he stated he ceased to attend after the May 8th meeting because he was waiting for a response from his trade certification application and because he was searching for work. The panel finds that the ministry was reasonable to determine that the appellant did not make reasonable efforts to comply with his EP by going extended periods of time without contacting the contractor to update them on his progress, include the contractor in his search activities, or inform

[REDACTED]

the contractor he would not be able to attend the office because he had no funds for the bus. The panel finds the appellant's claim, that for the six weeks he was without a mobile phone he was unable to phone the EPBC contractor, is unreasonable. The appellant states he was able to search for work 2-3 days per week therefore is reasonable to expect that he could make contact with the contractor to attend meetings and provide updates. The panel notes the letter dated April 24, 2014 from the EPBC contractor stated the appellant would continue his job search with/at the EPBC contractor office and he will attend scheduled appointments with the case manager until he reached his goal of full-time employment however the appellant stated he ceased attending the office after May 8, 2014.

Regarding the appellant's claim that he continued to attend the EPBC contractor's office through May 2014 but forgot to login to the attendance system, the panel finds the ministry was reasonable to find that the onus is on the appellant to provide confirmation of his attendance and that the act of logging onto an attendance system when he was at the office was not an unreasonable task. The EP states the appellant is to provide, upon request, verification of his compliance with the conditions of his employment related program including proof of work searches, attendance, and participation in the program.

The panel notes that the ministry did not provide any evidence regarding the attendance record of the appellant at the EPBC contractor. Although this evidence would have been helpful in determining the dates the appellant attended as well as the efforts of the contractor to contact the appellant, the panel finds the appellant is responsible to provide evidence that he made reasonable efforts to comply with his EP and therefore the panel finds the ministry was reasonable to find that he was non-compliant.

The panel finds that the ministry reasonably determined the appellant did not comply with the condition of his employment plan and ceased to be eligible for income assistance under section 9 (1) because he failed to demonstrate reasonable effort to participate in the employment program pursuant to EAA section 9(4)(a) and did not cease to participate due to a medical reason pursuant to section 9(4)(b).

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.