

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of September 26, 2014 which resulted in the discontinuance of the appellant’s income assistance. In particular, the ministry found that the appellant ceased to be eligible for income assistance as provided by section 9 of the *Employment and Assistance Act* (“EAA”) since he had not demonstrated reasonable efforts to comply with his employment plan (“EP”), and did not appear to have a medical condition that would have prevented him from participating in his EP.

PART D – Relevant Legislation

EAA, section 9

PART E – Summary of Facts

The appellant did not attend the appeal hearing. Having confirmed that the appellant had been notified, the panel proceeded with the hearing in accordance with section 86(b) of the Employment and Assistance Regulation.

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

- The EP signed by the appellant dated July 7, 2014.
- The appellant's Request for Reconsideration, dated September 15, 2014. The Request for Reconsideration contained information from a ministry worker and a handwritten reconsideration submission from the appellant.
- Work Search Activities Record forms completed by the appellant for the months of May, July and August, 2014.
- Work search results for the month of March 4, 2014, presumably prepared by the appellant.

The EP is a two page document. On the first page, in a section titled "A Note About Your Employment Plan", is the statement that "It is important that you follow through with the conditions of the EP. If you are unable to follow through please advise the ministry. If you fail to comply with your EP you will be ineligible for assistance."

In the section of the EP headed "Conditions of the Plan" is the statement "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)."

In section 3(d) of the EP the appellant acknowledges:

- "I will update and distribute my resume to all potential employers ...
- I am aware that the ministry expectation is that I spend 25 hours minimum per week on work search activities...
- I will search for all jobs I am capable of performing.
- I will seek out & apply for at least 2 positions in my area(s) of expertise each week.
- I will submit my completed work search every 3 weeks to be reviewed before cheque issue, I will submit a work search record which must: A) Indicate all work search activities I have completed. I understand that I am required to complete at least 5 work search activities per day 5 days per week, utilizing at least 5 different types of work search methods on a regular basis...B) Indicate whether I have used my resume or CV for each job application and what if anything I did to tailor the resume to that position. I understand that if I am applying for a position which requires an application form only I will complete one without submitting a resume."

The second page of the EP also contains the following acknowledgement above the appellant's signature and date of July 7, 2014:

"I acknowledge that it is a condition of eligibility that I sign this employment plan and that I

comply with the conditions set out in this plan ... I understand that I may be required to provide verification of my compliance with the conditions of this plan, including proof of active work search... I understand that if I do not comply with the conditions of this employment plan, the assistance issued to me and/or my family will be discontinued..."

The reconsideration decision indicates that the appellant submitted a work search on July 23, 2014. The ministry worker found that the work search was unsatisfactory as:

- the appellant had only searched for construction jobs, when his EP outlined that he must search for all types of employment;
- the work search did not include the specific dates or results of each activity, and did not identify the different avenues of work search methods.

The ministry worker outlined to the appellant that the next month's work search must include an attached resume with full details completed on the ministry form.

In reviewing the appellant's July 2014 Work Search Activities Record, the panel notes that it lists in alphabetical order the names of 27 construction firms and their phone numbers. The date indicated beside each name is "July 2014".

On August 27, 2014 the work search submitted by the appellant contained no resume and a total of 31 work search activities were shown. The appellant had again only searched for laboring positions. No specific dates were provided for each activity, and no detail was shown regarding the result or different avenues of work search methods.

At the appeal hearing, the ministry relied on its reconsideration decision and submitted no additional information.

PART F – Reasons for Panel Decision

The issue on appeal is the reasonableness of the ministry's reconsideration decision of September 26, 2014 which resulted in the discontinuance of the appellant's income assistance. In particular, the ministry found that the appellant ceased to be eligible for income assistance as provided by section 9 of the EAA since he had not demonstrated reasonable efforts to comply with his EP, and did not appear to have a medical condition that would have prevented him from participating in his EP.

The relevant legislative provision is as follows:

Employment and Assistance Act

Employment plan

- 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.
- (5) If a dependent youth fails to comply with subsection (2), the minister may reduce the amount of income assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period.
- (6) The minister may amend, suspend or cancel an employment plan.
- (7) A decision under this section
 - (a) requiring a person to enter into an employment plan,
 - (b) amending, suspending or cancelling an employment plan, or
 - (c) specifying the conditions of an employment plan

is final and conclusive and is not open to review by a court on any ground or to appeal under section 17 (3) [*reconsideration and appeal rights*].

* * *

The appellant's position, as set out in his reconsideration submission and Notice of Appeal, is that the work search forms he submitted complied with the requirements of his EP. The appellant also argued that the conditions put in the EP by the ministry worker were "exorbitant, excessive or harassment." At reconsideration, the appellant had argued that his July and August work search reports contained the same type of information that had always been accepted by previous ministry workers, and he requested that he be assigned another worker.

The ministry's position, as set out in its reconsideration decision, is that the appellant was provided with clear advice on July 23, 2014 as to why his July work search submission was inadequate. The ministry argued that the appellant's August submission showed the same deficiencies and fell short of demonstrating that the appellant made a reasonable effort to comply with the conditions of his EP.

Panel Decision

The panel is satisfied that the language of the EP is clear when it specifies that the appellant must:

- search for all jobs which he is capable of performing;
- indicate all work search activities which he has completed;
- complete at least 5 work search activities per day 5 days per week, utilizing at least 5 different types of work search methods on a regular basis;
- indicate whether he has used his resume for each job application and what if anything he did to tailor the resume to each job application.

As indicated by his signature on the EP, the appellant was aware of the requirements and of the consequences for non-compliance, but he did not fulfill them. The July and August Work Search Activities Records simply show a listing of what appear to be construction firms. There are no dates specified to demonstrate that the appellant conducted the required 5 job searches each day, 5 days per week. There is no evidence that he conducted any job searches for positions other than as a construction laborer. The number of activities for July and August (27 and 31 respectively) appear to fall short of the requisite 5 activities per work day. There is no detail as to what method of work search the appellant used, no copy of his resume, and no information about how his resume may have been tailored to be specific to each job or employer.

The panel finds that the ministry reasonably found that the appellant did not make reasonable efforts to comply with his EP. There is no evidence that the appellant has a medical condition that kept him from participating in the required activities.

With respect to the appellant's argument that the conditions of the EP were unreasonable, section 9(7) of the EAA provides that the decision specifying the conditions of the EP is not appealable.

For the reasons specified above, the panel finds that the ministry's reconsideration decision is a reasonable application of the legislation in the appellant's circumstances, and accordingly the ministry's decision is confirmed.