

### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry) reconsideration decision dated September 29, 2014, which held that the appellant is not eligible for income assistance (IA), pursuant to section 13(1)(a)(i) of the Employment and Assistance Act (EAA) for failing to accept suitable employment and that the appellant remains ineligible for the prescribed period set out under sections 13(2)(b) of the EAA and 29(3)(a) of the Employment and Assistance Regulation (EAR).

### PART D – Relevant Legislation

Employment and Assistance Act (EAA) – Section 13(1)(a)(i) and 13(2)(b).  
Employment and Assistance Regulation (EAR) – Section 29(3)(a).

## PART E – Summary of Facts

The appellant and the ministry did not attend the hearing. After confirming that both received confirmation of the hearing, the panel proceeded in their absence.

The evidence before the ministry at the time of reconsideration consists of:

1. Request for Reconsideration signed and dated September 16, 2014 in which the appellant states that:
  - his September assistance cheque was a week late and his phone was out of minutes;
  - the employer called but because his phone was out of minutes he missed the calls;
  - he called and texted the employer but the employer did not respond;
  - he never would have told the ministry about the employment opportunity if he had known his September assistance cheque was going to be late and his phone was going to be cut off; and
  - it is unfair to be denied IA, especially when he has done everything in accordance to his file.

In the Notice of Appeal signed and dated October 16, 2014, the appellant states that:

- he had a job lined up;
- the ministry held his cheque;
- his phone got cut off and he missed a few calls;
- if he would have gotten his cheque on the cheque issue date, he would not have missed the opportunity to work because he would have been able to call his employer back.

The ministry presents the following facts:

- August 27, 2014 the appellant informed the ministry that he had secured employment suitable employment;
- September 4, 2014 the appellant informed the ministry that the employment did not work out. The ministry called the employer and was advised that the employer attempted to contact the appellant numerous times but was unsuccessful. After 3 weeks, the appellant was taken off the availability list; and
- the appellant has not demonstrated that he attempted to establish other means of remaining in contact with his potential employer.

## PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry's decision which held that the appellant is not eligible for IA for failing to accept suitable employment was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. In particular, was the ministry reasonable in determining that the appellant is not eligible for income assistance (IA), pursuant to section 13(1)(a)(i) of the Employment and Assistance Act (EAA) for failing to accept suitable employment and that the appellant remains ineligible for the prescribed period set out under sections 13(2)(b) of the EAA and 29(3)(a) of the Employment and Assistance Regulation (EAR)?

The relevant legislation is as follows:

### EAA

#### 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.

(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.

### EAR

#### 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;
- (ii) the date the default occurred

#### *The Appellant's Position*

The appellant's position is that he made phone calls and sent text messages to his potential employer

but he did not respond. Added to this is, that his September assistance cheque was delayed. As a result he was unable pay for his telephone services. This resulted in him missing phone calls from his employer. Had the ministry issued his September assistance cheque on time he would not have missed the opportunity to work. He also argues that he is wrongfully being denied assistance as he has complied with the ministry.

#### *The Ministry's Position*

The ministry's position is that on August 27, 2014 the appellant provided information that he had secured employment. However, on September 4, 2014 the appellant informed the ministry that the employment did not work out. The ministry called the employer on September 4, 2014 and he stated that he attempted to contact the appellant numerous times but to no avail. After 3 weeks, the appellant was taken off the availability list. The ministry argues that it is up to the appellant to establish alternative ways to remain in contact with his employer, and that he has not demonstrated doing so. Since the appellant had an offer of suitable employment but failed to accept it, he is therefore, ineligible for income assistance pursuant to section 13(1)(a) of the EAA for a period of 2 months as prescribed under section 29(3)(a) of the EAR.

#### *The Panel's Decision*

Section 13(2)(b) of the EAA states that if a recipient defaults under section 13(1)(a)(i) of the EAA and does not have dependent children, the recipient is not eligible for IA for a period of 2 calendar months as prescribed in section 29(3)(a) of the EAR. The panel finds that the ministry reasonably applied section 29(3)(a) of the EAR in the circumstances of the appellant. At issue is if the appellant failed to accept suitable employment. The appellant argues that he has complied with the ministry and he set up work but was unable to accept the work because the ministry delayed his assistance which led to his phone being cut off. The ministry argues that it is up to the appellant to find ways to remain in contact with his employer. The panel notes that on September 4, 2014, the employer advised the ministry that he called the appellant and then waited 3 weeks for a response before removing the appellant from the availability list. Therefore, the panel finds that a delay in the appellant's September assistance cheque would not have caused a disruption in his phone services during the period in which the employer contacted him and waited for a response. Also the panel finds that the appellant has not demonstrated that he arranged for alternative ways of staying in contact with his employer, such as using the phone of family or friends, using email or attending in person. As a result, in the circumstances of the appellant, the panel finds that the ministry reasonably determined that the evidence establishes that the appellant failed to accept suitable employment as pursuant to section 13(1)(a) of the EAA and therefore is ineligible for IA for a period of 2 months as pursuant to section 13(2)(b) of the EAA and section 29(3)(a) of the EAR.

#### **Conclusion**

The panel finds that the ministry reasonably concluded that the evidence establishes that the appellant failed to accept suitable employment as pursuant to section 13(1)(a) of the EAA and is therefore ineligible for IA for 2 months as pursuant to section 13(2)(b) of the EAA and section 29(3)(a) of the EAR.