

### PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (Ministry) dated February 24, 2015, in which the Ministry determined that the Appellant is not eligible for income assistance. The Ministry found that the Appellant does not meet the requirement for 2 years employment set out in Section 8(1) of the Employment and Assistance Act (EAA) and Section 18(1) and (2) of the Employment and Assistance Regulation (EAR) and that he does not meet the requirements for the exemptions listed in Section 18(3) and (4) of the EAR.

### PART D – Relevant Legislation

Employment and Assistance Act (EAA) Section 8

Employment and Assistance Regulation (EAR) Section 18

## PART E – Summary of Facts

Information before the Ministry at reconsideration included:

- A copy of the Appellant's Two-Year Independence Assessment form, signed February 5, 2015, with all questions answered "no".
- A copy of a 10 Day Notice to End Tenancy for Unpaid Utilities listing the Appellant as tenant, dated February 16, 2015.
- The Appellant's Request for Reconsideration, signed February 15, 2015.

With his Notice of Appeal to the Tribunal the Appellant submitted copies of two 10 Day Notice to End Tenancy for Unpaid Rent or Utilities forms dated March 4, 2015, one in his name, one in another name as tenants, both referring to the same address. The Panel admitted the document in the Appellant's name as evidence under Section 22(4)(b) of the *Employment and Assistance Act* as it is in support of information and records that were before the minister. The Panel did not admit the Notice that is in another person's name as it is not in support of information and records that were before the minister.

The Appellant argued in his Request for Reconsideration and his Notice of Appeal to the Tribunal that he disagrees with the Ministry's decision because he is not working and has no income other than a GST rebate, and that he needs assistance until he can find employment. He stated that he received an eviction notice and needs financial help.

The Ministry stated to the Tribunal that their submission will be the reconsideration summary provided. In the Reconsideration Decision, the Ministry stated that the Appellant does not meet the 2 years of financial independence criteria or any of the exemptions outlined in the legislation. The Ministry stated that the Appellant does not meet the employment portion of the eligibility test which states that an applicant must have been employed for remuneration for at least 840 hours in each of 2 consecutive years, earned remuneration for employment of at least \$7,000 in each of 2 consecutive years or been employed for remuneration for a portion of 2 consecutive years and for the balance of those years either served a waiting period in respect of, or received benefits under, a claim made under the Employment Insurance Act (Canada) or received income under a public or private income replacement program or plan. The Ministry found that the Appellant did not meet any of the exemptions in the legislation: he is not under age 19, he is not pregnant, he does not have a medical condition that precludes his ability to work verified by a physician, he does not have dependent or foster children, he has not been supported by a spouse for the past 2 years, he has not been incarcerated for more than 6 months in the past 2 years, he has not been awarded a 2 year diploma, certificate or degree from a post-secondary school, he has not separated from an abusive spouse or had to change residence to flee an abusive relationship within the past 6 months, he does not have persistent multiple barriers to employment and he has not been caring for an ill spouse.

## PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the Ministry decision dated February 24, 2015, in which the Ministry determined that the Appellant is not eligible for income assistance. The Ministry found that the Appellant does not meet the requirement for 2 years employment set out in Section 8(1) of the Employment and Assistance Act (EAA) and Section 18(1) and (2) of the Employment and Assistance Regulation (EAR) and that he does not meet the requirements for the exemptions listed in Section 18(3) and (4) of the EAR.

### Legislation

#### EAA

#### Requirement for 2 years employment

- 8** (1) For a family unit to be eligible for income assistance, at least one applicant in the family unit must have
- (a) been employed for remuneration for at least the prescribed number of hours in each of two consecutive years,
  - (b) earned remuneration for employment in at least the prescribed amount in each of two consecutive years, or
  - (c) been employed for remuneration for a portion of two consecutive years and for the balance of those years either
    - (i) served a waiting period in respect of, or received benefits under, a claim under the *Employment Insurance Act* (Canada), or
    - (ii) received income under a public or private income replacement program or plan.
- (2) The Lieutenant Governor in Council may prescribe categories of applicants to whose family units this section does not apply.

#### EAR

#### Requirement for 2 years employment

- 18** (1) For the purposes of section 8 (1) (a) of the Act, an applicant must have been employed for remuneration for at least 840 hours in each of the 2 consecutive years.
- (2) For the purposes of section 8 (1) (b) of the Act, an applicant must have earned remuneration for employment of at least \$7 000 in each of the 2 consecutive years.
- (3) Section 8 of the Act does not apply to the family units of the following categories of applicants:
- (a) applicants who have not reached the age of 19;
  - (b) applicants who are pregnant;
  - (c) applicants who have a medical condition that, in the opinion of the minister,
    - (i) will prevent the applicant from working for at least the next 30 days, or
    - (ii) has prevented the applicant from working for a total of at least six months of the 2 years immediately preceding the date of the applicant's submission of the application for income assistance (part 2) form;
  - (d) applicants with dependent children;

- (e) Repealed. [B.C. Reg. 48/2010, Sch. 1, s. 1 (b).]
  - (f) applicants who have a foster child;
  - (g) applicants who were supported by an employed spouse for at least 2 years;
  - (h) applicants who were supported by an employed spouse for a portion of a two year period and met a requirement of section 8 (1) of the Act for the balance of the two year period;
  - (i) applicants who were incarcerated in a lawful place of confinement for at least 6 months of the 2 year period immediately preceding the date of application for income assistance;
  - (j) applicants who were in the care of a director under the *Child, Family and Community Service Act* or who had an agreement with a director under section 12.2 of the *Child, Family and Community Services Act* until the applicant's 19th birthday;
  - (k) applicants who
    - (i) have separated from an abusive spouse, or
    - (ii) changed place of residence to flee an abusive relative, other than a spouse, within the past 6 months if, in the minister's opinion, the applicant's ability to work is consequently impaired;
  - (l) applicants who have been awarded a 2 year diploma or certificate, a bachelors degree or a post-graduate degree from a post-secondary institution;
  - (m) applicants who have persistent multiple barriers to employment;
  - (n) applicants who reside with and care for a spouse who has a physical or mental condition that, in the minister's opinion, precludes the applicant from leaving home for the purposes of employment;
  - (o) applicants who are providing care for a child under an agreement referred to in section 8 of the *Child, Family and Community Service Act*;
  - (p) applicants who are providing care for a child under an agreement referred to in section 93 (1) (g) (ii) of the *Child, Family and Community Service Act*.
- (4) Section 8 of the Act does not apply to the family units of applicants if, in the minister's opinion,
- (a) the applicant, due to circumstances beyond the applicant's control, has been prevented from searching for, accepting or continuing employment, and
  - (b) the family unit will otherwise experience undue hardship.

The Appellant argues that the Ministry's decision results in his having no money for food, clothing or shelter as he has been evicted from his residence. He argues that he needs help to find employment.

The Ministry argues that the Appellant does not meet the legislative requirements for income assistance and does not qualify for any exemption under the legislation.

The Panel finds that the Ministry reasonably determined from the information provided by the Appellant that he does not meet the requirement in Section 8, EAA in that he does not meet the two-year financial independence criteria to be eligible for income assistance. The Appellant completed the Two-Year Independence Assessment, indicating that he was not employed for 840 hours in each year of any consecutive two year period, did not receive an income from employment of at least \$7,000 in each year of any consecutive two year period and was not employed and paid for work performed only for a portion of a consecutive two year period

and for the balance waiting for or receiving benefits under the Employment Insurance Act or receiving income under a private or public income replacement plan. The Appellant ticked "no" to each question relating to exemptions on the form, and provided no evidence that any of the exemptions listed in Section 18(3), EAR apply to him. With respect to Section 18(4), EAR, there is not sufficient evidence before the Panel supporting the appellant's submission that he is not able to work due to low vision. The appellant has not provided any evidence that he is, due to circumstances beyond his control, prevented from searching for, accepting or continuing in employment to section 18(4) of the EAR. The Appellant provided no information except an eviction notice to indicate that he will experience undue hardship; therefore the Panel finds that the Ministry reasonably determined that the Appellant does not meet the criteria for exemption under Section 18(4) of the EAR.

The Panel therefore confirms the Ministry decision as reasonably supported by the evidence.