

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “Ministry”) April 14, 2015 reconsideration decision denying the Appellant’s request for income assistance because the Appellant failed to comply with the conditions of his employment plan as required by section 9 of the *Employment and Assistance Act*. The Ministry specifically determined that the Appellant:

- Did not complete a work search record showing a minimum of 25 hours per week of activities and did not submit the record with his assistance reporting stub;
- Demonstrate that he made a reasonable effort to comply with his employment plan.
- Had no mitigating circumstances preventing him from complying with the employment plan.

PART D – Relevant Legislation

Employment and Assistance Act (“EAA”) Section 9.

PART E – Summary of Facts

With the consent of both parties, the hearing was conducted as a written hearing pursuant to section 22(3)(b) of the *EAA*.

For its reconsideration decision, the Ministry had the following evidence:

1. Information from its records that the Appellant is a sole employable income assistance recipient.
2. An employment plan signed by the Appellant on October 2, 2014 in which he acknowledged that, if he did not comply with the conditions of the plan, income assistance would be discontinued. Under the plan the Appellant agreed to participate in a supervised independent work search, and the following conditions which required him to:
 - Update and distribute his resume to potential employers.
 - Pursue available resources and employment opportunities through Employment Assistance Service Providers, Service Canada, the internet, library, newspapers, community agencies and cold calling potential employers.
 - Record his monthly work search activities and submit his record monthly with his assistance reporting card.
 - Use all personal contacts to help with his work search.
 - Spend a minimum of 25 hours a week on work search activities.
3. Letter dated October 10, 2014 from the Ministry to the Appellant in which the Ministry included the documents listed in item 4 below and also advised the Appellant that:
 - The current employment plan is a Supervised Independent Work Search.
 - He was required to look for work a minimum of 25 hours/week, which could be divided into 5 days a week for 5 hours a day or other variation.
 - The Ministry expected him to keep a record of his work search activities on its search activities form to document the 25 hours searching for work.
 - That record had to be submitted no later than the 5th of each month with his monthly stub of continued assistance to one of the locations listed in the letter.
 - His benefits would be held each month until a satisfactory job search was submitted.
 - The Ministry might verify his job search activities.
 - He had to submit his first work search activities record with his stub and most current resume by November 5, 2014.
4. Independent Work Search Tool Kit, brochures from different agencies, and a Street Survival Guide for one city prepared by a coalition to end homelessness.
5. 10 copies of work search activities record form and a Ministry reporting stub with the note “Please submit by Nov.5, 2014 with your job searches and resume. Thank you.”
6. Documents faxed November 5, 2015 from the Appellant to the Ministry including the Appellant’s resume; a completed Work Search Activities Record for October 2014 and November 5, 2014 signed and dated by the Appellant on November 5, 2014 with the following noted: “My shoulder has been bothering me lately. I have also been helping a friend more in trade for food, smokes.”
7. Documents faxed on December 8, 2014 from the Appellant to the Ministry, including a Work Search Activities Record for November 2014 (no specific dates) and a benefit stub dated 8/12/14.
8. Letter dated December 9, 2014 from the Ministry to the Appellant advising that his most recent submitted work search activities record was insufficient; until he submitted an adequate one he would be deemed non-compliant with the employment plan and therefore ineligible for income assistance.
9. Revised Work Search Activities Record for November 2014 faxed by the Appellant to the Ministry

on January 5, 2015; with this note at the bottom: "too late to submit for Dec. 17, now Jan. 4 after holiday".

10. Ministry records indicating that on January 13, 2014 it reviewed an updated work search record for November 2014 and deemed it sufficient.

11. Work Search Activities Record for January 2015, faxed by the Appellant to the Ministry on February 6, 2015, with a note at the end that he was really sick one week with the flu and couldn't leave home. There are no specific dates on the form other than the word January.

12. Appellant's March 2015 request for reconsideration, in which he stated that he believed he should be reinstated, and he also wrote:

- What his age is and that he could not bear to be evicted; he cannot cope with the busyness of a city; he needs a roof over his head and his landlady is getting impatient.
- He is trying his best to pay his rent and survive; it is very hard; he has no hydro, no water, barely any food; the food bank and friends help in hard times.
- There is barely any work, but he is still looking; he believes he is still a candidate for the social safety net.
- In response to the Ministry's letter about asking the same people for jobs – he has known those people for years and has gotten work through them.
- He lives in a location with only so many people to find work with; he heard things are picking up and he is hopeful things will turn around soon.
- He wants to work so that he can support himself properly; please don't discard him.

9. Faxed note dated April 7, 2015 from the Appellant to the Ministry stating that:

- It was a refax of material previously sent but not received, including an attached eviction notice dated April 1, 2015 from the owner of the rental indicating that the Appellant would be evicted on April 30, 2015 for unpaid rent for March and April 2015 totaling \$1,000, unless that amount was paid by April 15, 2015.
- He was requesting assistance benefits for March and April 2015 on an ongoing appeal.

For this appeal, the Appellant relied on the submissions made with his notice of appeal, which include his written statement, a letter dated April 19, 2015 from a friend and the April 1, 2015 eviction notice. In a written submission with that notice, the Appellant stated that he cannot understand why he would be refused assistance in his dire circumstances. He is penniless and has been evicted from his home of twelve years. He has never been in this situation and doesn't know how to cope. He wrote that he believed that the social safety net was there to help people who have fallen between the cracks. He is now homeless and has nothing to look forward to. The Appellant stated that he needs assistance to be able to find another home. Then he would be able to not worry and get on with the rest of his circumstances.

The Appellant also wrote that he did not cause the downturn in the economy. He is a victim of it. He stated that he has regressed into alcoholism and depression. The Appellant wrote that he was asked repeatedly to move and he was even told he would receive funds to move. He stated: "Send me somewhere else, so you don't have to deal with me. That does not sound like the social safety net to me. Sorry for being so blunt. I have paid into this fund all my working life. Now I am being thrown away, like a candy wrapper. I grew up being taught to provide for myself. At this moment in time, I'm struggling. I can't keep up to all the regulations. Also, I just went to the doctor about my problem, but it will take a month to be able to see her."

In her letter dated April 19, 2015, the Appellant's friend wrote that she has known the Appellant for

over 10 years. She described him as a kind, gentle man and a veteran. The friend wrote that over the past few years she observed the Appellant's steady decline into depression and alcoholism, unable to pay his rent, living in squalor, no hydro and no water. She stated that she and others have tried to help him by hiring him for odd jobs, feeding him, laundry, etc. They can only do so much. The friend also wrote that it is degrading for anyone to not be able to sustain themselves. The Appellant is a proud man and it took a lot for him to ask for help from the Ministry. The friend stated that the Appellant has been evicted from his home of 12 years because he didn't do his job search correctly. The friend wrote that she feels that the Appellant is not capable and she is concerned for his wellbeing.

Pursuant to section 22(4) of the *EAA*, the Panel admits the information in the Appellant's appeal statement and in the friend's letter as evidence that is consistent with and therefore in support of the evidence that the Ministry had at reconsideration.

For this appeal, the Ministry relied on and reaffirmed its reconsideration decision.

The Panel makes the following findings of fact:

1. The Appellant signed an employment plan on October 2, 2014.
2. Under that plan, the Appellant was required to record his monthly work search activities and submit his record monthly with his income assistance reporting card.
3. In the plan, the Appellant acknowledged that by signing it income assistance would be discontinued if he did not comply with the conditions of the plan.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry's reconsideration decision denying the Appellant's request for income assistance because the Appellant failed to comply with the conditions of his employment plan as required by section 9 of the *EAA* was reasonably supported by the evidence or was a reasonable application of the applicable legislation in the Appellant's circumstances.

Applicable Legislation

The following legislation applies to the Appellant's circumstances in this appeal.

EAA – 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.

(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 Parties' Positions

The Appellant's position is that he complied with the work search activities and reporting requirements. He even resubmitted one of the forms. The Appellant also submitted that previous employers were a good option for work where he lives because they rehire and other opportunities are limited in the economy. The Appellant stated that he cannot understand why he would be refused assistance in his dire circumstances. He is penniless and has been evicted from his home of twelve years. He has never been in this situation and doesn't know how to cope. He wrote that he believed that the social safety net was there to help people who have fallen between the cracks.

The Ministry's position is that by signing the employment plan, the Appellant agreed to the conditions of the plan. In its reconsideration decision, the Ministry wrote that it found that the Appellant did not demonstrate that he made a reasonable effort to comply with the conditions his employment plan. The Ministry also was not satisfied that the Appellant had any mitigating circumstances that prevented him from complying with the conditions of the employment plan. In its decision, the Ministry made a number of findings/comments which the Panel will address below.

The Panel's Findings and Decision

There is no dispute that the Appellant signed an employment plan on October 2, 2014 which included an acknowledgement that, if he did not comply with the conditions of the plan, income assistance would be discontinued. In that plan, there is a section regarding the steps the Appellant is required to take as part of his employment search. The Panel notes that there is no information in the record as to whether this section uses standard language applicable to all supervised independent work searches or whether it reflects the Appellant's specific circumstances, such as his age, his

education/training/skill levels, or the economy in the community where he has lived for 12 years. The Panel also notes that in its reconsideration decision the Ministry referred to contacts it had with the Appellant about looking for work in a large city and in another location. The Panel further notes that both the large city and other area referred to by the Ministry are a long distance and ferry rides away from where the Appellant lived for 12 years. There is no evidence in the record about what transportation options the Appellant has from his home to the ferry and from the ferry to these other locations. There is also no information about whether the Appellant had the financial means to travel those distances or to relocate without a job after 12 years in his home. The only information in the record is a 2013 Survival guide for the city prepared by a coalition against homelessness.

The Ministry did not indicate whether it considered the economic climate of the area where the Appellant lives, the size of that community, the Appellant's age and work experience, or whether in those circumstances re-employment or referrals from friends was in fact a reasonable option. The Ministry also did not refer to the Appellant's internet searches, newspaper searches, efforts to trade for work and contacts with businesses as evidenced in his November 2014 and January 2015 work search reports. The Appellant did report a week of illness preventing him from going out.

Under the terms of the employment plan, the Appellant was required to submit monthly work search reports with his income assistance stub. On January 5, 2015, the Appellant did fax a revised report for November 2014 which the Ministry accepted. With respect to the December 2014 report, the Appellant wrote on his January 5, 2015 fax that it was too late to submit one. The Appellant submitted a report for January 2014, which the Ministry decided was not sufficient. The Panel finds therefore, based on this evidence in the record, that the Ministry reasonably determined that the Appellant did not complete all the work search reports required under the employment plan and on this basis the Appellant did not demonstrate reasonable efforts to comply with his employment plan. The Panel further finds that the Ministry reasonably determined that there were no mitigating circumstances preventing him from complying with this condition of the employment plan.

For the reasons stated above, the Panel finds that the Ministry's reconsideration decision was reasonably supported by the evidence and was a reasonable application of the legislation applicable to the Appellant's circumstances. The Panel therefore confirms the reconsideration decision.