

APPEAL #

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision dated June 19, 2015, which found the Appellant is not eligible to continue to receive income assistance for failing to comply with the conditions of his employment plan in accordance with section 9 of the *Employment and Assistance Act* (EAA).

PART D – Relevant Legislation

The relevant legislation is section 9 of the EAA.

PART E – Summary of Facts

The Appellant is a single employable recipient with no dependants.

On February 6, 2015 the Appellant signed an employment plan agreeing to participate in employment programming in the city in which he was then living. He agreed to meet with the employment contractor on or before February 16, 2015, and to take part in activities designed to help them find employment. He agreed to contact the employment contractor if he were unable to keep appointments. He also agreed to contact the employment contractor or if he moved. Finally he signed the employment plan indicating that he understood the consequences of not following the plan.

On April 8, 2015 the employment contractor notified the ministry that the appellant had not been participating or maintaining the required contact as had been agreed in the employment plan. On April 16, 2015 the appellant advised the ministry that he was looking for work in a different city. On April 23, 2015 the appellant advised the ministry that he was looking for work in the third city, at which time the ministry advised the appellant to connect with the employment contractor in that city. The appellant indicated to the ministry that he understood and that he was aware of the consequences of not being in compliance with his employment plan. The ministry provided the appellant with the address and phone number of the employment contractor in that city. The appellant did not contact the employment contractor.

On May 14, 2015 the ministry sent the appellant's letter addressed to his last known address stating that as the appellant was not compliant with his employment plan he was no longer eligible for income assistance. On May 27, 2015 the appellant advised the ministry that he had not contacted the employment contractor because they required him to attend in the morning at which time he was seeing his lawyer who only worked in the mornings. The ministry requested information confirming this.

On June 4, 2015 the ministry again advised the appellant that he was not eligible for income assistance for failing to comply with the conditions of his employment plan. The appellant provided the ministry with information that he had an appointment scheduled for an orientation session with the employment contractor on June 9, 2015.

On June 9, 2015 the appellant submitted a request for reconsideration asking for a "second chance". In his submission the appellant states that he had recently moved to the city he did not know how to get around. Furthermore he has been put on bail and probation and has received injuries which meant he could not work. Since January he has been under a lot of stress because he's experiencing life events such as homelessness, no help from his family, lack of food and depression, no access to a phone or the Internet, that he's dealing with a recent addiction and finally that he recently lost a family member.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the Ministry's finding that the Appellant is not eligible to continue to receive income assistance for failing to comply with the conditions of his employment plan.

The relevant legislation is section 9 of the 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.
- (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*].

In his written submission the appellant argues that he has recently been complying with the employment plan, that he has attended to appointments with the employment contractor and has a third one scheduled, that he is attempting to get treatment and to enter the workforce search with a clear head.

The Ministry relied upon its reconsideration decision where in it argued that the Appellant has not demonstrated reasonable efforts to comply with his employment plan and that it was not satisfied that there are mitigating circumstances that prevented the appellant from complying with this employment plan.

The panel finds that at the time of the reconsideration decision the Appellant had consistently failed to meet the terms of his employment plan. Specifically, he did not make contact with an employment contract or did not attend appointments as required by his employment plan.

Under section 9(1)(b) of the EAA, in order to be eligible to receive income assistance, an applicant must comply with the terms of his or her employment plan. If a recipient does not comply with his or her employment plan they are ineligible for income assistance. As to the Appellant's submission, while he may well now be engaging in employment search activities, it is clear from the record that he was not doing so at the time of the reconsideration decision, which is the decision here under appeal.

Accordingly, the Panel finds that the Ministry's decision is a reasonable application of the relevant legislation and confirms the ministry's decision pursuant to sections 24(1)(b) and 24(2)(a) of the EAA.