



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (Ministry) Reconsideration Decision dated August 31, 2015, which denied income assistance to the Appellant under Section 9(1) of the Employment and Assistance Act (EAA) for failing to demonstrate reasonable efforts to comply with the conditions of her employment plan. The Ministry found that the Appellant did not make reasonable efforts to participate in a specific employment-related program as required under Section 9(4), EAA and did not appear to have a medical reason excusing her from participating.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) Section 9

PART E – Summary of Facts

The Appellant was not in attendance at the hearing. After confirming that the Appellant was notified, the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation.

Information before the Ministry at reconsideration included:

- A letter from the Ministry to the Appellant dated July 23, 2015, advising her that she is not eligible for income assistance.
- A "Message to Worker" from the Appellant date stamped by the Ministry April 30, 2014, stating that her cheque is on hold, she didn't know she had to stay in touch with the employment service contractor, new appointments have been made and she had a meeting with a new worker.
- A copy of the Appellant's Employment Plan, dated September 24, 2013.
- The Appellant's Request for Reconsideration, signed August 18, 2015, with a note from the Appellant stating that she did not understand that the Work BC follow-up was mandatory, their last contact with her was July 2014, then she suddenly received a letter July 28, 2015. She wrote that she does not understand why this could not have been dealt with by Work BC months ago. The Appellant wrote that she received a letter on July 28 with a pamphlet "Your Guide to the Employment Plan, which she had not seen before. She wrote that she went to Work BC in October, 2013, was assigned to classes, then returned to the dated follow-ups, was asked in April, 2014 to fill in a job search and took a few more classes. She wrote that when you have been out of work for more than a year you get depressed. She wrote that she would buy a book of bus tickets and try to make them last. She wrote that she did not understand what was expected, that when they said to keep in touch no-one said you have to or else, and she could not use two bus tickets to visit Work BC. She wrote that she did not think that Work BC was mandatory. The Appellant wrote that at her age she is not likely to be employed and living on income assistance of \$610 per month is better than nothing. She referred to the advice as useless.

With her Notice of Appeal the Appellant included a list of employers to whom she had applied dated May to July, and a copy of a 10 Day Notice to End Tenancy dated September 4, 2015 and a note stating that she did not miss any assigned classes, the only thing she missed was follow-up. She also submitted a written note stating that she is applying for CPP benefits. The Panel did not admit the Appellant's submission of her Notice to End Tenancy under Section 22(4) of the Employment and Assistance Act as it was not in support of the records before the minister at reconsideration. The Appellant's note and list of employers to whom she had applied were accepted by the Panel as argument.

At the hearing, the Ministry referred to the Reconsideration Decision. The decision states that the Appellant's compliance obligations were reviewed with her when she reconnected with the employment service provider in May, 2014. In response to questions from the Panel, the Ministry stated that when an employment plan is signed, the person is required to attend the employment contractor's classes for a week, and is then required to keep in touch with his/her case manager. The Ministry stated that transportation is provided for interviews by the contractor. In the Appellant's case, she did not attend classes or keep in touch about results of her job searches.

PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the Ministry's decision which denied income assistance to the Appellant under Section 9(1) of the Employment and Assistance Act (EAA) for failing to demonstrate reasonable efforts to comply with the conditions of her employment plan. The Ministry found that the Appellant did not make reasonable efforts to participate in a specific employment-related program as required under Section 9(4), EAA and did not appear to have a medical reason excusing her from participating.

Legislation

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*].

The Appellant's position is that she did not understand that the following up with her employment service

contractor was mandatory and she did not understand the consequences of failing to do so. She argued that she has been unemployed for more than a year and gets depressed and that she has little chance of finding employment.

The Ministry's position is that the Appellant signed an employment plan which required her to participate in any programming and complete all tasks as directed by the employment service contractor and to work with them to address any issues that may impact her employability and which stated that failure to comply with the conditions of her employment plan would make her ineligible for income assistance. The ministry argues that this requirement was clearly outlined in the employment plan and again explained when she was given a second opportunity and her employment obligations were reviewed and that she didn't mention any mitigating circumstances on these occasions. The ministry also argues that there is no confirmation from a physician of a medical condition that would have prevented participation.

The Panel notes that the Appellant was first notified of her failure to comply with the conditions of her employment plan in April, 2014, when she then reconnected with the employment service contractor. In February, 2015, the contractor reported again that the Appellant was not participating in the program. The Appellant has not provided evidence to explain why she did not participate in the program for medical reasons or provide a mitigating reason why she failed to participate. The employment plan as signed by the Appellant clearly states that failure to comply with the conditions of the plan will result in ineligibility for assistance and the Appellant's obligations were reviewed with her in May, 2014. The conditions of the plan include a requirement to demonstrate reasonable efforts to participate in the program.

The Panel finds that the Ministry reasonably determined that the Appellant failed to demonstrate reasonable efforts to participate in her employment plan. The Panel therefore confirms the Ministry decision.