



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of October 23, 2015, that denied the appellant income assistance for failing to comply with the conditions of his employment plan as required in the Employment and Assistance Act section 9(1) which required the appellant to participate in a specific employment-related program. The ministry found that the appellant failed to demonstrate reasonable effort to participate in the program and that there were no medical reasons that prevented him from participating as per 9)4).

PART D – Relevant Legislation

Employment and Assistance Act Section 9

PART E – Summary of Facts

The information before the ministry at the time of reconsideration included the following:

- The appellant's signed Employment Plan dated January 23, 2015
- Request for Reconsideration dated October 13, 2015

Employment Plan

The purpose of the Employment Plan (EP) is to outline activities and expectations for the appellant to find employment or become more employable. The EP has specific timelines for activities and is reviewed regularly. If the appellant is unable to follow through with the activities they are to advise the ministry. If the appellant fails to comply with the EP they will be ineligible for assistance.

Conditions of the plan

- Terms of plan. January 16, 2015-January 15, 2017
- Appellant must meet with the EPBC Contractor on or before January 27, 2015;
- take part in EPBC program activities;
- complete all tasks including any actions set out in the EPBC Action Plan;
- call the EPBC Contractor if unable to take part in services or complete steps that are agreed to or when the appellant finds work.
- If the appellant does not follow this employment plan, the ministry may stop income assistance payments.

In the appellant's Request for Reconsideration, he wrote:

- For no other reason other than he would be homeless
- He did not attend the required appointments because he assumed he would find a job without their help
- If given another chance he will not miss a single appointment

At the hearing, the appellant stated that:

- he did not believe the ministry's decision was unreasonable;
- he was convinced he could get a job on his own so was not worried about attending the sessions and was wrong for thinking that;
- the decision by the ministry was not wrong but he was going through the appeal process in hopes of another chance.

At the hearing the appellant's grandmother was present for support, when asked by the panel chair; the ministry agreed the grandmother could make a statement on the appellant's behalf. The grandmother stated the appellant;

- was sharing in the cost of rent;
- the appellant was trying.

In the reconsideration decision, the ministry wrote:

- On January 23, 2015 the appellant signed an EP
- On September 24, 2015 the EPBC advised the ministry the appellant had been in contact; however had failed to attend four appointments in a row.
- The appellant advised the ministry the reason for missing the appointments was likely due to sleeping in and then it was too late to attend.
- The appellant did not supply any medical documentation that would indicate he suffers from any medical issues that would impact his ability to attend employment programming.

At the hearing, the ministry relied on its reconsideration decision and submitted no new information but did restate that the appellant;

- Had signed the employment plan agreement showing he understood the requirements of the plan;
- No justifiable issues were offered by the appellant such as medical or addiction issues;
- Nonattendance of EP sessions left the ministry no other choice but to end income assistance

PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry's reconsideration decision, which found that the appellant was ineligible for income assistance, was reasonably supported by the evidence or was a reasonable application of Section 9 of the Employment and Assistance Act. In particular, was the ministry reasonable in determining that

- the appellant did not comply with the EP
- the evidence did not establish the appellant made a reasonable effort to participate in the program
- there were no medical reasons for this failure to participate

The relevant legislation is as follows:

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.

The appellant was required to enter an employment plan and was required to comply with the conditions of the employment plan to be eligible for income assistance. A condition of his employment plan was that he participate in an employment program and as per 9(4) EAA, that condition is not met if the person does not demonstrate reasonable efforts to participate, unless there was a medical reason

The Appellant's Position

The Appellant has stated in his written appeal and during the tribunal appeal hearing that he does not disagree with the decision of the ministry to deny his income assistance as he did not comply with his EP and that he did not have any reasonable reasons for noncompliance. The appellant had advised the ministry he had missed four appointments with the employment program in a row likely due to sleeping in and being as it was too late, he did not attend the sessions. He advised the ministry that he stays up late and then cannot get up in the morning. A request for reconsideration was made for no other reason than he would be homeless and that he did not attend the appointments as he assumed he could find a job without their help. No medical documents for non-attendance were submitted. He stated his hopes were that he would be given another chance.

The Ministry's Position

On January 23, 2015 the appellant signed an employment plan (EP). One condition of the plan was to participate in employment programming through Employment Program of BC (EPBC). The appellant agreed to take part in the EPBC program activities and to complete all tasks given including actions set out in his EPBC Action Plan. By signing the plan, the appellant indicated he understood that if he did not follow his plan, the ministry may stop income assistance payments.

On September 24, 2015 the EPBC advised the ministry the appellant had been in contact but had failed to attend four appointments in a row. The minister found that the appellant had not demonstrated a reasonable effort to comply with the conditions of your employment plan or that he had any mitigating circumstances that prevented him from complying with the conditions of the employment plan. No medical documentation was supplied to indicate the appellant suffered from any medical issues that would impact his ability to attend employment programming. It was therefore determined that the appellant was not eligible for assistance, as per Section 9 of the Act.

Panel Decision

The legislation- section 9(1) of the Employment and Assistance Act states if income assistance is to be given to the applicant, the applicant must comply with the conditions of an employment plan. Attendance to appointments by the EPBC was a condition of the EP of which the appellant missed four. As no mitigating circumstances or medical reason for non-attendance were given, the ministry's decision that he failed to comply with his EP was reasonable as he failed to demonstrate reasonable efforts to participate in the employment program as per s. 9(4) and thus as per section 9(1) was ineligible for income assistance.

Conclusion

Having reviewed and considered all of the evidence and relevant legislation, the panel finds that the ministry's reconsideration decision which determined that the appellant was not eligible for income assistance for failure to comply with his EP pursuant to Section 9 of the EAA was reasonably supported by the evidence, and therefore confirms the decision. The appellant is not successful in his appeal.