



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovations (the “ministry”) December 3, 2015 reconsideration decision discontinuing the appellant’s 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 demonstrate that he made a reasonable effort to comply with his employment plan.
- Had no mitigating or medical 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

1. For its reconsideration decision, the ministry had the following evidence:

A. An Employment Plan (EP) signed by the appellant on June 5, 2015, in which as a condition of continued eligibility for income assistance he agreed:

- To meet with the EPBC Contractor on or before June 18, 2015;
- To participate in EPBC programming fully and to the best of his ability as directed by the contractor;
- To complete all tasks assigned and attend required sessions/appointments;
- To notify the contractor if he is unable to take part in services or complete steps that he has agreed to or notify them if he moves; and
- Acknowledged he understood that participation in an EP is not open to appeal.

B. Information from its records that:

The appellant was previously receiving income assistance as a sole recipient from February 2014 until April 2015 and during that time, on July 9, 2014 the ministry received a report from the Employment Program of BC (EPBC) that the appellant had not followed through with their intake process. The ministry held the August 2014 assistance and confirmed that the appellant had the correct contact information for EPBC and advised him that the assistance cheque would be held until he followed the Employment Plan (EP). When a plan was submitted on July 25, 2014, the ministry discussed the requirement for compliance with the plan and released the income assistance cheque. On June 4, 2015 the appellant's file was re-opened and he once again was receiving income assistance as a sole recipient who was employable.

Attempts to contact the appellant noted in the reconsideration decision and request for reconsideration:

- June 4 to June 17, 2015, seven unsuccessful attempts to reach the appellant by phone and during one of those calls someone hung up the phone;
- July 28, 2015, letter sent to the appellant to contact EPBC, no response received;
- August 6, 2015, report from EPBC that there had been no contact and a signal was placed on the August income assistance cheque;
- August 17, 2015, appellant attended a meeting with EPBC and subsequent meeting was set for September 4;
- August 26, 2015, EPBC reported the appellant would start work in 1-2 weeks;
- September 9, 2015, the appellant advised EPBC that he was working;
- September 23, 2015, EPBC requested details of appellant's employment;
- September 28, 2015, a signal was placed on the November income assistance because no details of employment were provided;
- October 21, 2015, the EP was discussed with the appellant and he was advised that further non-compliance with the EP could lead to denial of assistance;
- November 4, 2015, due to a lack of contact with EPBC, a recommendation was made to end assistance under the assumption that the appellant was working and independent;
- November 18, 2015, appellant contacted the ministry office and stated he had left weekly messages for the EPBC worker but had not received any response. The EPBC worker stated that all her calls are recorded and

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there was no record to substantiate that statement. The only call on record was from November 17 during which it was noted that appellant sounded intoxicated. The appellant denied any medical or substance abuse issues but admitted to having had a few drinks during the evening of November 17.

- C. Appellant's request for reconsideration dated November 27, 2015 with a job search activity record and confirmation of hours he had worked in a part time and temporary job he found himself.

In his request for reconsideration statement, the appellant stated that:

- He disagreed that the EPBC tried to contact him seven times as they were using an old phone number for him which he no longer has and despite having his email address they did not use that to contact him;
- He submitted his work searches by fax and had maintained contact by calling the reception but had not heard back;
- the type of work he has done for over 20 years is becoming more limited and that he would benefit from workshops but this was not made available to him; and
- He was generally critical of the lack of assistance he believed he was getting from the EPBC Contractor.

2. At the hearing:

The appellant provided much of the same information as in his request for reconsideration. He stated that he agreed with most of the information in the reconsideration decision but disagreed that he did not attend meetings. He stated he felt frustrated because he had to travel an hour and a half by bus to meetings in which he felt he was belittled and took it upon himself to look for work on his own. He felt the meetings were a waste of time.

Pursuant to section 22(4) of the EAA, the Panel admits the information in the appellant's notice of appeal and his testimony at the hearing as being consistent with and therefore in support of the evidence that the ministry had at reconsideration.

The ministry reviewed and relied on its reconsideration decision.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's reconsideration decision discontinuing the appellant's income assistance because he failed to comply with the conditions of his employment plan, as required by section 9 of the EAA, was reasonably supported by the evidence and/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 Positions of the Parties

The appellant's position is that the EPBC Contractor was unable to fit him in before the June 18, 2015 date when he had to present himself to their office so that should not be held against him. He felt he -completed ninety percent of the plan and had managed to secure part-time temporary work using his own resources. He did not feel it was right that the ministry was relying on the fact that he missed some phone calls to set up meetings which is only ten percent of the plan as a reason to deny him income assistance especially in light of the fact the EPBC contractor was using an old phone number and did not make attempts to contact him by using the email address they had for him.

The ministry's position is that they explained the requirement for participation and compliance with the EP to the appellant and that by signing the EP, the appellant agreed to participate fully and to the best of his ability to comply with its conditions. The ministry stated there was a pattern of non-compliance established in this case and that the appellant failed to make a reasonable effort to comply with the EP.

In its reconsideration decision, the ministry noted that the appellant did not fully participate in the employment plan program because; of the three meetings that the appellant attended, two were after his income assistance cheques had been signaled for possible non-compliance; despite repeated attempts to contact him he was unreachable by phone frustrating attempts to schedule further meetings with him; and he denied any mitigating or medical circumstances that prevented him from participating in the EP. Therefore, the ministry determined that the appellant failed to demonstrate reasonable efforts to participate in the employment plan program and pursuant to section 9 of the EAA deemed he was no longer eligible for assistance.

The Panel's Findings and Decision

The purpose of an Employment Plan is to outline the specific activities and expectations of someone on income assistance in order to assist them in finding employment or to make them more employable.

Section 9 of the EAA mandates when required by the ministry each applicant for income assistance must enter into and comply with the conditions of an EP. There is no dispute that the appellant signed an EP on June 5, 2015 which included an acknowledgement that, if he did not comply with the conditions of the plan, income assistance would be discontinued.

The appellant denied the existence of any medical or substance dependency issues which would prevent him from complying with the EP and invoke an exception under section 9(4)(b). The remaining issue then is whether the appellant made reasonable attempts to fully participate in the EP as required by the ministry and by legislation. The appellant estimates that he participated in ninety percent of the required activities and points to the fact that he managed to find temporary part-time work and submitted job search activity logs as proof of his effort. He also states however that it was a waste of time to meet with the EPBC worker who he criticizes as not attending to his needs for employment workshops which would assist him in acquiring employment in a different field than what he has done previously.

The panel finds in order to be eligible for income assistance the EP creates an onus on the appellant to make reasonable efforts to comply with the EP a feature of which includes maintaining communication with the EPBC worker. That requires the appellant to reach out to the worker if he has not heard from them within a reasonable period of time. The evidence shows that the EPBC worker reached out many times and was not able to reach the appellant but the appellant's behaviour suggests he only reached out when he was likely to have assistance withheld. In the panel's view this does not demonstrate a reasonable effort to comply with the EP.

The panel acknowledges the appellant's efforts to find work but finds he did not provide a reasonable explanation for why he didn't make more of an effort to communicate and work collaboratively with the EPBC worker in order to meet his needs for workshops and other assistance to help him secure employment or improve his employability.

Conclusion:

The panel finds that the evidence establishes the ministry reasonably concluded the appellant did not make reasonable efforts to participate in the EP and that he provided no evidence of any medical reason which precluded him from participating as required by section 9 of the EAA. The Panel finds that the ministry's decision was a reasonable application of the legislation and supported by the evidence. The panel confirms the ministry's reconsideration decision.