

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated May 2, 2016, which found that the appellant was ineligible for income assistance because he did not meet the requirement of two years of financial independence set out in Employment and Assistance Act (EAA) Section 8 (1) and did not meet any of the exemptions found in Section 18 Employment and Assistance Regulation (EAR).

## PART D – Relevant Legislation

Employment and Assistance Act (EAA), Section 8 (1)

Employment and Assistance Regulation (EAR), Section 18

## PART E – Summary of Facts

The appellant is a single person with no dependents.

The evidence before the ministry at reconsideration included:

- appellant's income assistance application dated March 31, 2016;
- request for reconsideration received by the ministry on April 7, 2016 to which was appended the appellant's job resume and a typewritten note from the appellant, summarized as follows:
  - in 2014 he and his family members had to flee from another part of the province to escape abuse from his father;
  - he has been searching for work since July 2014, when his full time job fell through;
  - since then he has had a number of short term jobs but has been unable to maintain steady employment, probably due to a lack of adequate training;
  - in September 2015 he attended a 3 week job skills training program at Work BC;
  - from late September to October 2015 he participated in an aboriginally-based employment program to gain more certifications for employment;
  - he has been unable to find a job since October 2015 and believes it may be due to anxiety issues and being a First Nations person.

On May 17, 2016 the appellant submitted additional written information. Some of the information contains argument which will be discussed in Part F of this decision. The relevant portions of the appellant's submission are summarized as follows:

- he has been to countless interviews, counselling, courses, and obtained certifications as a cashier and barista;
- BC is the only province that requires so much certification;
- he is receiving second class treatment and not being hired because he is an aboriginal person;
- he has found federal courses that he is interested in but that do not have a provincial equivalent through Work BC;
- he does not have the financial means to use transit to look for work;
- he has repeatedly asked for help to become financially independent but has been refused by the ministry.

The panel considered this additional evidence and determined that it was admissible under Section 22 (4) of the Employment and Assistance EAA as evidence in support of the records before the ministry at reconsideration because it provided additional details of his attempts to obtain employment.

[ ]

## PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the ministry decision of May 2, 2016 in which the ministry determined that the appellant was ineligible for income assistance (IA) because he did not meet the requirement of two years of financial independence found in Employment and Assistance Act (EAA) Section 8 (1) and did not meet any of the exemptions set out in Section 18 Employment and Assistance Regulation (EAR).

Relevant legislation:

### **EAA:**

#### ***Requirement for 2 years employment***

**8** (1) For a family unit to be eligible for income assistance, at least one applicant in the family unit must have

- (a) been employed for remuneration for at least the prescribed number of hours in each of two consecutive years,
- (b) earned remuneration for employment in at least the prescribed amount in each of two consecutive years, or
- (c) been employed for remuneration for a portion of two consecutive years and for the balance of those years either
  - (i) served a waiting period in respect of, or received benefits under, a claim under the *Employment Insurance Act (Canada)*, or
  - (ii) received income under a public or private income replacement program or plan.

(2) The Lieutenant Governor in Council may prescribe categories of applicants to whose family units this section does not apply.

### **EAR:**

#### ***Requirement for 2 years employment***

**18** (1) For the purposes of section 8 (1) (a) of the Act, an applicant must have been employed for remuneration for at least 840 hours in each of the 2 consecutive years.

(2) For the purposes of section 8 (1) (b) of the Act, an applicant must have earned remuneration for employment of at least \$7 000 in each of the 2 consecutive years.

(3) Section 8 of the Act does not apply to the family units of the following categories of applicants:

- (a) applicants who have not reached the age of 19;
- (b) applicants who are pregnant;
- (c) applicants who have a medical condition that, in the opinion of the minister,



- (i) will prevent the applicant from working for at least the next 30 days, or
- (ii) has prevented the applicant from working for a total of at least six months of the 2 years immediately preceding the date of the applicant's submission of the application for income assistance (part 2) form;
- (d) applicants with dependent children;
- (e) Repealed. [B.C. Reg. 48/2010, Sch. 1, s. 1 (b).]
- (f) applicants who are providing care to a child in care;
- (g) applicants who were supported by an employed spouse for at least 2 years;
- (h) applicants who were supported by an employed spouse for a portion of a two year period and met a requirement of section 8 (1) of the Act for the balance of the two year period;
- (i) applicants who were incarcerated in a lawful place of confinement for at least 6 months of the 2 year period immediately preceding the date of application for income assistance;
- (j) applicants who were in the care of a director under the *Child, Family and Community Service Act* or who had an agreement with a director under section 12.2 of the *Child, Family and Community Services Act* until the applicant's 19th birthday;
- (k) applicants who
  - (i) have separated from an abusive spouse, or
  - (ii) changed place of residence to flee an abusive relative, other than a spouse,within the past 6 months if, in the minister's opinion, the applicant's ability to work is consequently impaired;
- (l) applicants who have been awarded a 2 year diploma or certificate, a bachelors degree or a post-graduate degree from a post-secondary institution;
- (m) applicants who have persistent multiple barriers to employment;
- (n) applicants who reside with and care for a spouse who has a physical or mental condition that, in the minister's opinion, precludes the applicant from leaving home for the purposes of employment;
- (o) applicants who are providing care for a child under an agreement referred to in section 8 of the *Child, Family and Community Service Act*;
- (p) applicants who are providing care for a child under an agreement referred to in section 93 (1) (g) (ii) of the *Child, Family and Community Service Act*.

(4) Section 8 of the Act does not apply to the family units of applicants if, in the

minister's opinion,

(a) the applicant, due to circumstances beyond the applicant's control, has been prevented from searching for, accepting or continuing employment, and

(b) the family unit will otherwise experience undue hardship.

### **Appellant's Position**

The appellant argues that in 2014 he and his family members had to flee from another part of the province due to severe abuse from his father, which included beating and torture and which was terrifying for him, leaving him with mental anxiety and anguish. He has been actively searching for work since July 2014 and has attended job skills training programs through Work BC and a First Nations employment program. He adds that he has worked at a number of short-term jobs, but has been unable to obtain long-term employment because of inadequate training, his own anxiety issues and racial discrimination because he is a First Nations person. He also argues that he has researched all options suggested by Work BC and those careers do not exist. Because he has no money for transit he must walk to job interviews.

### **Ministry's Position**

The ministry's position is set out in the reconsideration decision, which is summarized as follows:

- the appellant has failed to meet the eligibility criteria for IA set out in Section 8 (1) of the EAA, which pursuant to EAR Section 18 requires that a person must have been employed for 840 hours for at least 2 consecutive years, or must have earned \$7,000 for each of two consecutive years.
- the appellant does not fall within any of the exemption categories listed in EAR Section 18 (3);
- EAR Section 18 (4) does not apply to the appellant because there is insufficient evidence to establish that circumstances beyond the appellant's control have prevented him from searching for, accepting or continuing employment and that the family unit will otherwise experience undue hardship.

### **Panel Decision**

The panel finds that the ministry reasonably determined from the information provided by the appellant that he does not meet the IA eligibility criteria in EAA Section 8 because he has not met the requirement for two years of financial independence. On March 7, 2016 the appellant completed the online application for IA, and on March 18, 2016 he participated in a telephone interview with a ministry worker. He signed his written application for IA on March 31, 2016. In all 3 stages of his IA application the appellant indicated that he had not worked the requisite 840 hours per year or earned \$7,000 per year for two consecutive years.

The panel also finds that the ministry reasonably determined that the appellant did not meet any of the exemption criteria set out in EAR Section 18 (3). During his March 18, 2016 telephone interview a ministry employee discussed all of the exemption criteria with the appellant and the appellant stated that he did not meet any of them. Although the appellant fled from an abusive relative in 2014, the exemption criterion set out in subsection (k) (ii) of EAR Section 18 (3) is applicable only to applicants who have fled an abusive relative within the 6 month period preceding the application for IA.

The panel also finds that the ministry reasonably determined that EAR Section 18 (4) was inapplicable to the appellant's circumstances because there was insufficient evidence to establish that circumstances beyond the appellant's control prevented him from searching for, accepting or continuing employment and that the family unit would otherwise experience undue hardship. Although the appellant has indicated that he continues to suffer mental anguish and anxiety from all the turmoil and abuse in his family history there was no medical or other evidence before the ministry at the time of reconsideration to support his position. The panel notes that in its reconsideration decision the ministry suggested that prior to his appeal the appellant could submit additional third-party evidence relating to his anxiety issues and their effect on his ability to maintain employment.

In conclusion the panel finds that the ministry's decision that the appellant is ineligible for IA because he did not meet the requirement of two years of financial independence and did not meet any of the exemptions set out in Section 18 Employment and Assistance Regulation (EAR) is reasonably supported by the evidence, and confirms the decision.