



## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of October 6, 2016, which found that the appellant was not eligible for income assistance as per Section 9(1) of the Employment & Assistance Act (EAA) as he failed to comply with the terms of his Employment Plan (EP) because he failed to demonstrate reasonable efforts to participate in his employment related program (EPBC) which was a condition of his employment plan and was not prevented from doing so due to medical reasons as per s. 9(4) EAA.

## PART D – Relevant Legislation

Employment and Assistance Act (EAA), Section 9

## PART E – Summary of Facts

The Appeal Tribunal proceeded in the absence of the Appellant as per EAR 86(b) after the Chair confirmed that the Appellant had been notified of the hearing.

For its submission, the ministry relied upon the appeal record.

- The Appellant is a single employable person.
- On April 14, 2016 the Appellant signed an Employment Plan (EP) which refers the Appellant to an employment program (EPBC) and warns that if he does not follow this employment program, the ministry may stop his Income Assistance (IA) payments as this is a condition of his employment plan.
- On September 1, 2016, the EPBC contractor reported that the Appellant was contacted by an employer for an interview the previous week, but failed to respond either to the employer's, or the Job Developer's, emails or phone calls, despite being given three opportunities to show up for an interview. On the third occasion the Appellant indicated he would attend, but failed to do so. The EPBC Contractor also reported that the Appellant had not attended any recent hiring fairs as suggested by the Job Developer.
- On September 14, 2015 the EPBC Contractor reported to the ministry that he had not yet re-connected with them.
- On September 21, 2016 the Appellant was reminded by the Ministry of the conditions of his employment plan and noted that he had failed to comply with the terms of the EP as he was not demonstrating reasonable efforts to participate in his EP. The Appellant stated he had sent an email to the EPBC contractor but never heard back. He advised the Ministry that he did not attend the job interview as the job involved working with a material that made him sick. The Ministry noted he needed to discuss this with the EPBC contractor but had not done so, nor did he respond to the efforts made to contact him. The Appellant was advised that he was no longer eligible for IA.

### **Documentary evidence provided by the Ministry includes:**

- An EP dated March 31, 2016, which was signed by the Appellant on April 14, 2016 and refers the Appellant to the EPBC program and warns that if he does not follow this employment plan, the ministry may stop his Income Assistance (IA) payments.
- An EP dated April 26, 2016, which is unsigned
- A letter from the ministry to the Appellant dated April 26, 2016, indicating that the Appellant must review the EP, sign and date the document, and return it to the ministry.
- A Request for Reconsideration dated September 30, 2016, in which the Appellant stated, "I fucked up and I need one more chance. Plain and simple."
- A Reconsideration Decision dated October 6, 2016, which determined that the Appellant did not make a reasonable effort to participate in his EPBC and therefore was not complying with the terms of his EP.
- A Notice of Appeal dated November 1, 2016 on which the Appellant indicated he needs a "chance to explain himself properly".

## PART F – Reasons for Panel Decision

The issue is whether the ministry's decision that the Appellant was not eligible for income assistance as per Section 9 (1) of the EAA because he failed to comply with the terms of his Employment Plan (EP) as he failed to demonstrate reasonable efforts to participate in his employment related program (EPBC) which was a condition of his employment plan and was not prevented from doing so due to medical reasons as per s. 9(4) EAA, was a reasonable application of the legislation in the circumstances of the appellant, or was reasonably supported by the evidence.

### **Section 9 of the EAA states:**

#### 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 ministry argues that the appellant was required to enter into an employment plan, and the condition of that employment plan was to "complete all tasks given to you, including any actions set out in your EPBC Action Plan... You must call your EPBC Contractor if you cannot take part in services or complete steps that you agreed to, or when you find work." The goal of the plan is for the Appellant to find employment. The Appellant did not attend a job interview or respond to the EPBC Contractor's attempts to contact him. The Appellant's position is that he made a mistake and would like another chance. Section 9(4) of the EAA states that an applicant must demonstrate reasonable efforts to participate in their employment program unless there are medical reasons for ceasing to participate. On September 1, 2016, the EPBC contractor reported that the Appellant was contacted by an employer for an interview the previous week, but failed to respond either to the employer's, or the Job Developer's, emails or phone calls, despite being given three opportunities to show up for an interview. On the third occasion the Appellant indicated he would attend, but failed to do so. The EPBC Contractor also reported that the Appellant had not attended any recent hiring fairs as suggested by the Job Developer. The Appellant argued that he did not attend the job interview as the job involved working with a material that made him sick. There is no medical documentation to support the appellant's argument that the job would make him sick and no medical evidence to support the Applicant's failure participate in his EPBC.

As such, the panel determined that the Ministry's decision that the appellant did not make reasonable efforts to participate in his employment plan and there was no medical reasons for not doing so as per s 9(4) EAA was reasonably supported by the evidence. As this was a requirement of his EP, the ministry's decision that the appellant did not comply with the conditions of his employment plan as per s. 9(1) was reasonably supported by the evidence and confirms the Ministry's decision.

The Appellant's appeal is not successful.