

## PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (ministry) dated November 4, 2016, in which the ministry determined that the Appellant is not eligible for income assistance. The Ministry found that the Appellant does not meet the requirement for 2 years employment set out in Section 8(1) of the *Employment and Assistance Act* (EAA) and Section 18(1) and (2) of the *Employment and Assistance Regulation* (EAR). The ministry further determined that he does not meet any of the exemptions in Section 18(3) or 18(4) of the EAR.

## PART D – Relevant Legislation

Employment and Assistance Act (EAA) Section 8  
Employment and Assistance Regulation (EAR) Section 18

## PART E – Summary of Facts

Information before the Ministry at reconsideration included:

- A copy of the application for income assistance form dated September 28, 2016.
- A copy of Employment Program of British Columbia Employment Readiness Information Questionnaire in which the appellant states that he has never worked and that he is looking for his first job in Canada.
- The appellant's Request for Reconsideration dated October 23, 2016 in which the appellant states:
  1. He was born and lived in Canada until age 15, then out of the country until age 19 when he moved back on his own to attend school.
  2. He arrived too late for the September semester and applied for a student loan and is looking for work.
  3. He states that he never had a job and has no work experience and is finding it hard to find employment.
  4. He states that he does not meet any of the exemptions in legislation
  5. He can't afford his rent and has received a notice of eviction.
  6. He states that he has proof that he will be attending university in May and wouldn't be depending on a job by then nor would he be depending on assistance.
- The appellant's Application for Income Assistance dated October 12, 2016 in which the appellant states that he does not have an immediate need for food, shelter or urgent medical attention.

In the appellant's Notice of Appeal dated November 4, 2016 the appellant states that he disagrees with the decision because he was out of the country and has no Canadian experience and everywhere he applies they require Canadian experience. The appellant also disagrees with the 2 year independence rule since he already applied for university will not be depending on assistance or a job for long so there is no point of the 2 year independence in his situation.

### **At the hearing:**

The appellant did not attend the hearing.

The ministry relied on the facts in the Reconsideration decision. It is the ministry's position that the appellant did not have employment earnings of at least \$7,000 (or 840 hours) in each of any 2 consecutive years and did not qualify for any of the allowable exemptions and therefore did not meet the 2 year financial independence required to become eligible for assistance.

## PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the Ministry decision dated November 4, 2016, in which the Ministry determined that the Appellant is not eligible for income assistance. The Ministry found that the Appellant does not meet the requirement for 2 years employment set out in Section 8(1) of the Employment and Assistance Act (EAA) and Section 18(1) and (2) of the Employment and Assistance Regulation (EAR) and that he does not meet the requirements for the exemptions listed in Section 18(3) and (4) of the 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

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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.

[am. B.C. Regs. 331/2003, s. 1; 304/2005, s. 4; 279/2009; 48/2010, Sch. 1, s. 1 (b); 145/2015, s. 5.]

**Panel decision:**

The Panel finds that the ministry reasonably determined from the information provided by the appellant that he does not meet the legislated requirement in Section 8(a) or (b), of the EAA and Section 18(1) and (2) of the EAR to be eligible for income assistance. The evidence is that the appellant reported to the ministry that he was not employed for 840 hours in each year of any consecutive two year period, did not receive an income from employment of at least \$7,000 in each year of any consecutive two year period and he did not meet any of the exemptions stated in section 18(3) EAR to the legislated requirements for income assistance set out in section 8(1) EAA.

With respect to Section 18(4), EAR, there is not sufficient evidence before the Panel that there were factors beyond the appellant's control that prevented him from meeting the 2 year legislated criteria set out in section 18(1) or 18(2) EAR.

Section 8(1)(c)(ii) states "For a family unit to be eligible for income assistance, at least one applicant in the family unit must have been employed for remuneration for a portion of two consecutive years and for the balance of those years received income under a public or private income replacement program or plan." The panel finds that the appellant was not employed for remuneration for a portion of two consecutive years.

The panel finds that the ministry's decision that the appellant was not eligible for income assistance under section 8 EAA was supported by the evidence and was a reasonable application of the legislation in the circumstances of the appellant. The panel confirms the ministry's decision in accordance with section 24(1)(b) and 24(2)(a) of the Employment and Assistance Act.