

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of March 7, 2017, that denied the appellant income assistance as he had abandoned his employment without contacting his employer to advise he was not able to come to work or that he intended on returning. Section 13(2)(b) of the Employment and Assistance Act (EAA) states a sole recipient is not eligible for assistance for a prescribed period if they leave employment without just cause as set out in section 13(a)(ii and 13(2)(b)of the EAA.

PART D – Relevant Legislation

Employment and Assistance Act Section 13

Employment and Assistance Regulations Section 29

PART E – Summary of Facts

On March 29, 2017 the appeal hearing began at 1:33 PM, 3 minutes late as to allow all participants to connect with the teleconference. The appellant did not connect with the teleconference until 1:47 PM which was after the conclusion of the appeal hearing. The appellant asked for direction and was instructed to write or email the Tribunal to request assistance/direction in this matter.

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

- Record of Employment (ROE) dated January 25, 2017
- Request for Reconsideration dated March 3, 2017

The appellant was in receipt of income assistance from October 2013 to November 2016. His file was closed due to non-compliance with conditions of his Employment Plan (EP).

February 14, 2017 the appellant advised the ministry he had been working but required assistance initiating a reapplication February 16, 2017. The appellant stated he had not complied with the EP conditions as he had been working and that his last day of work was in December.

The appellant submitted a ROE which indicated he had quit as he had not shown up or called to indicate he would be absent from work or that he intended to return to work. The last day of work was noted as January 20, 2017.

February 17, 2017 the appellant was advised he was not eligible for assistance.

March 3, 2017 the appellant submitted a completed Request for Reconsideration to the ministry.

In the appellant's Request for Reconsideration he stated that:

- His grandfather had just passed and this has put him in a tough situation.
- Before the grandfather's passing the appellant had been with him every day so was not able to attend to work.
- He has been in a depression, is currently behind on rent and is currently looking for work.
- He did not contact his employer as he was dealing with the family emergency and was very busy helping his family.

During the hearing the ministry;

- Restated the information found in the Reconsideration Decision dated March 7, 2017.
- When asked to clarify "just cause", the ministry representative shared some examples noting that the appellant may have had a possible "just cause" but that he had not communicated with his employer; he had simply stopped going to work.
- When asked if there is a process the appellant may have been able to follow to address the discrepancy in the dates he had stated and the employer had in terms of his last day of work, the ministry representative was not sure but felt there was a process that could have been followed.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration decision dated March 7, 2017 which found that the appellant was ineligible for income assistance for two months as he had quit his job without just cause as is required in Section 13 (1)(a)(ii) and 13(2)(b) of the (EAA).

The relevant legislation is Section 13 of the EAA and Section 29 of the EAR.

Employment and Assistance Act Section 13

Consequences of not meeting employment-related obligations

13 (1) Subject to the conditions of an employment plan, the family unit of an applicant or a recipient is subject to the consequence described in subsection (2) for a family unit matching the applicant's or recipient's family unit if

(a) at any time while a recipient in the family unit is receiving income assistance or hardship assistance or within 60 days before an applicant in the family unit applies for income assistance, the applicant or recipient has

- (i) failed to accept suitable employment,
- (ii) voluntarily left employment without just cause, or
- (iii) been dismissed from employment for just cause, or

(b) at any time while a recipient in the family unit is receiving income assistance or hardship assistance, the recipient fails to demonstrate reasonable efforts to search for employment.

(2) For the purposes of subsection (1),

(a) if a family unit includes dependent children, the income assistance or hardship assistance provided to or for the family unit must be reduced by the prescribed amount for the prescribed period, and

(b) if a family unit does not include dependent children, the family unit is not eligible for income assistance for the prescribed period.

(3) The Lieutenant Governor in Council may specify by regulation categories of applicants or recipients to whose family units this section does not apply.

Employment and Assistance Regulation Section 29

Consequences of failing to meet employment-related obligations

29 (1) For the purposes of section 13 (2) (a) [*consequences of not meeting employment-related obligations*] of the Act,

(a) for a default referred to in section 13 (1) (a) of the Act, the income assistance or hardship assistance provided to or for the family unit must be reduced by \$100 for each of 2 calendar months starting from the later of the following dates:

- (i) the date of the applicant's submission of the application for income assistance (part 2) form under this regulation;
- (ii) the date the default occurred, and

(b) for a default referred to in section 13 (1) (b) of the Act, the income assistance or hardship assistance provided to or for the family unit must be reduced by \$100 for each calendar month until the later of the following occurs:

- (i) the income assistance or hardship assistance provided to the family unit has been reduced for one calendar month;
- (ii) the minister is satisfied that the applicant or recipient who committed the default is demonstrating reasonable efforts to search for employment.

(2) The reduction under subsection (1) applies in respect of each applicant or recipient in a family unit who does anything prohibited under section 13 (1) [*consequences of not meeting employment-related obligations*] of the Act.

(3) For the purposes of section 13 (2) (b) [*consequences of not meeting employment-related obligations*] of the Act, the period of ineligibility for income assistance lasts

(a) for a default referred in to section 13 (1) (a) of the Act, until 2 calendar months have elapsed from the later of the following dates:

- (i) the date of the applicant's submission of the application for income assistance (part 2) form under this regulation;

(ii) the date the default occurred, and

(b) for a default referred to in section 13 (1) (b) of the Act, until the later of the following has occurred:

(i) the family unit has been ineligible for income assistance for one calendar month;

(ii) the minister is satisfied that the applicant or recipient who committed the default is demonstrating reasonable efforts to search for employment.

Appellant's Position

The appellant believes that staying with his grandfather and helping his family out during this time was just cause for his actions and therefore he should be eligible for assistance.

Ministry's Position

In the reconsideration decision, the ministry had determined the appellant would have a two month ineligibility sanction imposed as he had abandoned his employment without contacting his employer to advise he was not coming to work or that he intended on returning. Under section 13(2)(b) of the EAA a sole recipient is not eligible for assistance for a prescribed period if they leave employment without just cause as set out in section 13(a)(ii and 13(2)(b)of the EAA. The ministry noted that while the appellant's personal situation was difficult for him; it did not negate the responsibility of contacting his employer when not able to work. In the opinion of the minister, the appellant had quit his job without just cause.

Under section 29(3)(a) of the EAR the prescribed period of ineligibility is 2 calendar months from the later date of application or the date of quitting employment. As the legal document ROE states the date of quitting was January 20, 2017 and the application for assistance was made February 14, 2017; the later date was used as the date ineligibility commenced. Therefore the appellant is not eligible for assistance for two calendar months, February and March.

Panel Decision

Section 13(2)(b) of the Employment and Assistance Act (EAA) states a sole recipient is not eligible for assistance for a prescribed period if they leave employment without just cause as set out in section 13(a)(ii) and 13(2)(b)of the EAA.

The appellant believes his actions were justified as his grandfather was ill and his family needed him each day. The ministry feels the situation did not negate the responsibility of the appellant from contacting his employer to explain why he was not able to work and whether he intended to return to work in the future.

The panel finds that the ministry's determination at reconsideration that the appellant did not meet the conditions of an employment plan as he voluntarily left his employment without contacting his employer was a reasonable application of Section 13 of the EAA in the circumstances of the appellant and was reasonably supported by the evidence.

Conclusion

The panel finds that the Ministry's decision dated March 7, 2017 which found that the appellant was ineligible for income assistance for two months was a reasonable application of the legislation in the circumstances of the appellant. The panel confirms the Ministry decision; the appellant is not successful in his appeal.