

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (the "ministry") Reconsideration Decision of March 6th, 2017 in which the ministry declared the appellant ineligible for income assistance (IA) because he failed to comply with the conditions of his Employment Plan pursuant to Section 9(1)(b) & 9(4)(a)(b) of the Employment and Assistance Act (EAA).

PART D – Relevant Legislation

EAA *Employment and Assistance Act*, Section 9

PART E – Summary of Facts

The appellant was not in attendance at the hearing. After confirming that the appellant was notified, the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation.

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

- 1) **September 27th, 2016 - A newly signed (by the appellant) Employment Plan (EP)** referring the appellant to the Employment Program of British Columbia (EPBC) employment contractor. The EP stated that the appellant would attend the program on or before October 12, 2016 and continue to participate in the EPBC programming regularly and as directed by the EPBC contractor.
- 2) **On the September 27th 2016 dated (EP)** – the appellant agreed to work with the EPBC contractor to address any issues that may impact employability and the appellant was to make contact with the contractor if he could not make a session or when he started or ended employment. Further, the EP stipulated that if the appellant was to fail to comply with the conditions of the EP – the appellant would be ineligible for assistance. Noted on the EP was that by signing, the appellant acknowledged the conditions of the EP and the consequences for non-compliance.
- 3) **October 13th, 2016 - Work Search Activities Record:** listing the appellant’s contacts with prospective employers over the period September 25 through October 13, 2016, with the appellant noting that he “can only get into town on certain days.”
- 4) **December 9, 2016 – a report by the EPBC contractor indicated that;**
 - *On September 29th, 2016 they attempted to contact the appellant but were unable to reach him as the phone number was not in service.
 - *On October 4th, 2016 they were unable to contact the appellant as they did not have a valid email or phone number.
 - *On October 11, 2016 the appellant did not attend to apply for EPBC services. They were unable to contact the appellant as they did not have valid contact information.
- 5) **December 21, 2016** – the ministry record indicates that the appellant submitted an appointment card stating that an appointment was made for December 22nd, 2016. At that time the appellant stated that he understood that compliance was a condition of his eligibility for income assistance, and would participate fully with EPBC.
- 6) **February 2nd, 2017 - Record of Employment (ROE)** indicating the appellant’s first day worked as December 27, 2016 and the last day worked as January 4, 2017 and that he would not be returning.
- 7) **February 15, 2017** – a report by EPBC indicated that;
 - *December 22nd, 2016 they called and asked the appellant to attend to fill out the on-line application.
 - *December 28th, 2016 they called and had asked the appellant to attend to fill out the online application but the appellant stated he was not feeling good and could barely move. The appellant stated he was unable to attend the office but that he would attend on Friday December 30th, 2016.
 - *December 30th, 2016 the contractor called and left a message asking the appellant to attend and fill out a package and on-line application.The ministry reported that a hold was placed on the next cheque so that the appellant could discuss the lack of participation with his EP.
- 8) **February 23rd, 2017** – the appellant spoke with a ministry worker. When asked why he had not attended as required, he stated that he was busy with probation and forgot.
 - *The appellant stated that he thought his file was closed because he had started working. The employment period was from December 27th, 2016 to January 4th, 2017.
 - *The appellant stated that the employment contractor had advised that because he was working more than 20 hours per week that he would not be eligible for EPBC services.
 - *The ministry worker asked why the appellant agreed to attend an appointment on December 30th, 2016 if EPBC had advised the appellant that he was not eligible for services. The ministry worker also pointed out that the appellant called on February 6th, 2017 to confirm that the file was open. The ministry worker asked why the appellant did not reconnect with the EPBC when he lost his job - The appellant stated that he was busy with

probation and forgot.

*The appellant was reminded of the earlier conversation on December 21st, 2016 – where it was confirmed by the appellant that he understood compliance was a requirement for on-going income assistance eligibility.

- 9) **March 1st, 2017** – A signed request for reconsideration package was received. The appellant wrote that he did not attend at the employment contractor because he was working and was supposed to get 32 hours per week. He was told that he was not eligible because he had more than 20 hours per week. He tried to close his file, but then he got fired from his job due to his criminal record. He is now enrolled with the employment contractor and his first appointment is March 14, 2017.

Additional Information

March 8th, 2017 - The appellant stated on his Notice to Appeal that it was his first time applying for an employment contractor and he just didn't know how everything worked and what he had to exactly do, and that he could not hear her on the phone. That he had a job but did not realize that he had to continue with the employment contractor.

At the hearing, the ministry relied on the reconsideration decision and did not introduce any additional evidence. The ministry clarified at the hearing that the appellant did not attend the appointment he scheduled with the employment contractor for December 22, 2016.

PART F – Reasons for Panel Decision

The issue under appeal is the Ministry of Social Development and Social Innovation's (the "ministry") Reconsideration Decision of March 6th, 2017 in which the ministry declared the appellant ineligible for income assistance (IA) because he failed to comply with the conditions of his Employment Plan pursuant to Section 9(1)(b) & 9(4)(a)(b) of the Employment and Assistance Act (EAA).

The relevant sections of the legislation are as follows:

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.

Panel Decision

The ministry's position, as set out in the reconsideration decision, is that the appellant is not eligible for income assistance due to non-compliance with his Employment Plan (EP) as per Section 9(1)(b), of the Employment and Assistance Act (EAA). In his Notice of Appeal dated March 8th, 2017 the appellant stated that it was his first time applying with an employment contractor and he just didn't know how everything worked and what he had to exactly do, and that he could not hear her on the phone. That he had a job but did not realize that he had to continue with an employment contractor. The ministry notes that when the appellant signed the EP that he entered into a legal agreement with the ministry to comply with the conditions of the EP and follow through with the EPBC requirements. The ministry also notes that when the appellant signed the EP, he acknowledged that if he did not comply, he would be found ineligible for assistance. The ministry records indicate that the conditions of the EP were such that the appellant was required to attend the EPBC program on or before October 12, 2016 and continue to participate in the EPBC programming regularly and as directed by the EPBC contractor. The EP required the appellant to work with the EPBC to address any issues of employability, and to contact the contractor if he was unable to make a session, or when starting or ending employment.

The ministry records indicate that the appellant did not attend two scheduled EPBC appointments, did not call in advance to reschedule appointments, did not work with EPBC to develop an Action Plan, and did not notify EPBC when he found and lost employment, and failed to respond to the multiple attempts (five) by EPBC to reach him. The ministry wrote that given the appellant failed to make contact and attend appointments, as well as failed to work with EPBC, the

appellant did not make reasonable efforts to comply with the EP agreement as per Section 9(4)(a) of the EAA – and did not provide any reason which indicated that medical reasons caused him to cease to participate in EP programming pursuant to Section 9(4)(b) of the EAA. The ministry's position is that the conditions of the EP were reasonable, and that the appellant was given numerous opportunities to comply, and as such was deemed ineligible for income assistance under Section 9 of the EAA.

Section 9(1) of the EAA states that a recipient of income assistance must comply with the conditions of the EP in order to be eligible for continued income assistance, and subsection (4) specifies that, if an EP includes a condition requiring a person to participate in a specific employment-related program, that condition is not met if the person fails to demonstrate reasonable efforts to participate in the program, or ceases, except for medical reasons, to participate.

The panel finds, that the evidence establishes that on September 27th, 2016 the appellant signed an EP in which he agreed to participate in employment programming, and would contact the contractor of EPBC if he was unable to attend. Further, the evidence establishes that the appellant was made aware that by signing the EP, he was bound by a legal agreement that if he did not comply with, the lack of compliance would render him ineligible of continued income assistance. Accordingly, the evidence establishes that the appellant's timeline from September 27th, 2016 through to February 23rd, 2017 consisted of two missed appointments, a general failure to call in advance to reschedule those missed appointments, a lack of updating the ministry with current contact information, or responding to the multiple (five) attempts made by the ministry to contact the appellant, and a general lack of engagement with EPBC. Although the appellant wrote that he was working for a period of time and thought he was no longer eligible under the EP, the ministry pointed out that the appellant also agreed to attend an appointment with the employment contractor on December 30, 2016, or during the time that he was employed, and that he did not attend. Overall, the panel finds that the ministry reasonably determined that the evidence establishes a theme of non-compliance on behalf of the appellant with the conditions of his EP.

As such, the panel finds that the ministry reasonably determined that the appellant failed to demonstrate reasonable efforts to participate in the EP, more specifically; by failing to attend two scheduled EPBC appointments between October 11th, 2016 and December 30th, 2016, failing to respond to the five attempts to contact the appellant made by EPBC, as well as failing to notify the employment contractor in advance of any barriers to attending the appointments. The ministry also reasonably determined that the appellant failed to satisfy the ministry that he was unable to meet the obligations of the EP and he ceased to participate for medical reasons. Accordingly, the panel finds that the decision of the ministry to declare the appellant ineligible for income assistance for failure to comply with the conditions of his EP was a reasonable application of the applicable enactment in the circumstances of the appellant. Therefore, the panel confirms the ministry's decision pursuant to section 24(1)(b) and section 24(2)(a) of the Employment and Assistance Act. The appellant therefore is not successful in his appeal.